

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NOS. 20110265470 and 20110290013**

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

RE: WJB Capital Group, Inc., CRD No. 37334
Craig A. Rothfeld, CRD No. 2528055
Gregory S. Maleski, CRD No. 4499978

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, WJB Capital Group, Inc. ("WJB"), Craig A. Rothfeld and Gregory S. Maleski (collectively, "Respondents") submit this Letter of Acceptance, Waiver and Consent ("AWC") for the purpose of proposing a settlement of the alleged rule violations described below. This AWC is submitted on the condition that, if accepted, FINRA will not bring any future actions against Respondents alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. Respondents hereby accept and consent, without admitting or denying the findings, and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of FINRA, or to which FINRA is a party, prior to a hearing and without an adjudication of any issue of law or fact, to the entry of the following findings by FINRA:

BACKGROUND

WJB was founded in 1993. Until 2008, it was known as W.J. Bonfanti, Inc. ("W.J. Bonfanti"). It is a privately held institutional broker-dealer that offered agency equity and options execution, a corporate access platform, general market and specialized sector research, and commission management solutions.

In early January 2012, the firm ceased operations. At that time, it had approximately 100 associated persons and operated trading desks in New York, Boston, Denver and San Francisco.

On January 26, 2012, pursuant to Rule 17a-11 promulgated under the Securities Exchange Act of 1934 (the "Exchange Act"), WJB notified regulators that it had suffered a net capital deficiency of \$11,781,000 during the period January 2

through December 31 of 2011. In a note to its FOCUS Report for December of 2011, the firm disclosed that this deficiency was due, in part, to an \$8 million reserve that it had established with respect to certain unidentified contingencies. The firm currently maintains its FINRA membership.

Craig A. Rothfeld ("Rothfeld") was WJB's Chief Executive Officer ("CEO"). He first became registered with FINRA in 1994. From that time through 2001, he worked for several FINRA-registered firms. WJB hired Rothfeld in 2002. In January 2012, Rothfeld's registration with the firm was terminated. He is not currently registered, but he remains subject to FINRA's jurisdiction pursuant to Article V, Section 4 of FINRA's By-Laws.

Gregory S. Maleski ("Maleski") was WJB's Chief Financial Officer ("CFO") and FINOP. WJB hired him in 2002 and he was first registered with FINRA in 2005. Maleski prepared and submitted the firm's FOCUS reports during the periods discussed below. In January 2012, Maleski's registration with the firm was terminated. He is not currently registered, but he remains subject to FINRA's jurisdiction pursuant to Article V, Section 4 of FINRA's By-Laws.

RELEVANT DISCIPLINARY HISTORY

In New York Stock Exchange Hearing Board Decision 08-12 (Mar. 13, 2008), WJB consented to a censure and a fine of \$60,000. The sanctions were based on findings that, during the period January 2003 through December 2005, the firm violated SEC and NYSE rules with respect to the firm's handling and supervision of error account transactions and reports.

OVERVIEW

Starting in approximately 2009, WJB began to experience financial difficulties. Further, at various times during 2011, the firm engaged in securities transactions when it was below its minimum required net capital. During such times, Rothfeld and Maleski caused WJB to fail to disclose its financial difficulties and net capital deficiencies by:

- (1) misstating its balance sheet and other books and records by: (a) improperly treating almost \$10 million in compensation that was previously paid to certain of its employees as forgivable loans, and (b) failing to record obligations by WJB to indemnify these employees for any additional taxes they might owe, and
- (2) misclassifying the items listed below as allowable for net capital purposes when they should have been classified as non-allowable:
 - (a) approximately \$1.6 million in receivables that related to "non-deal

road-shows" and third party research (December 2009 through October 2011);

(b) \$675,000 in subordinated loans for which the firm failed to file lender maturity extensions with FINRA on a timely basis (March through July 2011);

(c) a \$600,000 loan that the firm extended to a retired officer of WJB (December 2010 through October 2011); and

(d) a \$1.5 million loan that WJB received from its clearing firm (December 2010 through September 2011).

Based on the foregoing, Rothfeld and Maleski caused WJB to violate: (1) SEC Rule 15c3-1 in that it engaged in securities transactions when it was below its minimum net capital; (2) SEC Rules 17a-3 and a-5 promulgated under the Exchange Act in that its FOCUS Reports, net capital computations and books and records were misstated; and (3) SEC Rule 17a-11 promulgated under the Exchange Act in that the firm failed to notify regulators of the aforementioned net capital deficiency on a timely basis. By causing such violations, Rothfeld and Maleski violated FINRA Rule 2010 and NASD Rule 3110(a).

Rothfeld, Maleski and WJB also failed to reasonably supervise the firm's financial and accounting functions, including its computation of net capital and the preparation of its FOCUS reports, books and records, and employee compensation records, thus violating FINRA Rule 2010 and NASD Rule 3110(a).

FACTS AND VIOLATIVE CONDUCT

WJB began experiencing financial difficulties in at least 2009 and subsequently became insolvent. During January through December of 2011, it engaged in securities transactions when it was below its minimum required net capital. During such times, Rothfeld and Maleski caused WJB to fail to disclose its financial difficulties and net capital deficiencies by misclassifying the following assets and liabilities for accounting and/or net capital purposes during the periods set forth below:

Misclassification of Employee Compensation and Related Promissory Notes

From 2009 through December 31, 2011, Rothfeld and Maleski caused WJB to convert compensation that WJB had previously paid to approximately 28 employees into forgivable promissory notes that it issued to these persons.

Rothfeld met with these individuals and arranged for them to execute the notes. He also executed the notes and their subsequent amendments on behalf of the firm. Maleski notarized the notes. The amount of these notes totaled approximately \$9.8 million on December 31, 2011.

The notes typically had eight year maturities. A percentage of the underlying loans were forgivable over a period of years and under virtually all circumstances (e.g., the voluntary or involuntary termination of employment or the employee's death). The maturity date of most of the notes could be accelerated upon the occurrence of a "sales event," as defined in the notes, involving WJB.

As a result of the foregoing, Rothfeld and Maleski caused WJB to fail to provide for the appropriate payment of taxes with respect to the above-mentioned compensation and tax liabilities.

Beginning in October 2009, Rothfeld and Maleski caused WJB to classify these notes as assets on its balance sheet. This was despite the following: (1) the underlying loans related to compensation that was already earned by the employees; (2) the wide ranging and virtually inevitable circumstances upon which the loans would be forgiven ensured that there was no unconditional obligation for the employees to repay the loans, and (3) re-payment of several years' worth of compensation by the employees (either in substantial part or in their entirety) was unlikely.

Had WJB appropriately booked these loans and tax obligations, and provided for the payment of the appropriate taxes with respect thereto, its balance sheet during the last three years would have reflected substantial losses in addition to those that it was already experiencing.¹

SEC Rule 17a-3 requires, among other things, that broker-dealers maintain accurate books and records, including general ledgers. A failure to maintain accurate books and records is both a violation of Exchange Act Rule 17a-3 and FINRA Rule 2010.

NASD Conduct Rule 3110 (a) requires that each member make records in accordance with SEC Rule 17a-3.

FINRA Rule 2010 provides that "a member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade."

Based on the foregoing, Rothfeld and Maleski caused WJB to violate SEC Rule 17a-3 and FINRA Rule 2010 and NASD Rule 3110(a) by misstating its balance

¹ A reclassification or write-off of the notes by WJB would not have affected the firm's net capital as the notes had already been deducted from the firm's net capital.

sheet and other books and records. By causing such violations, Rothfeld and Maleski violated FINRA Rule 2010 and NASD Rule 3110(a).

Net Capital

Corporate Access and Research Receivables: WJB conducted non-deal road shows that were attended by issuers seeking financing. The road shows were also known as "corporate access events." The issuers met with and solicited investment firms that sought to provide financing to small and mid-size companies. WJB also provided third-party research to investment firms.

WJB offered the above services with the understanding that the investment firms could compensate WJB either: (1) by directing third-party prime-brokers and/or clearing firms to remit funds directly to the firm, or (2) on a soft-dollar basis. WJB often received such payments months after the road shows had occurred or the research had been provided.

Rothfeld and Maleski caused WJB to improperly classify these receivables as allowable assets for net capital purposes during the period of December 2009 through October 2011. Pursuant to SEC Rule 15c3-1, the receivables were not allowable for such purposes since, among other reasons: (1) all such payments were discretionary and the prime brokers and clearing firms were not obligated, contractually or otherwise, to make them to WJB; (2) any payments that were made did not relate to securities transactions; and (3) the receivables were not collectable within 30 days.

As a result of the misclassification of these receivables, WJB misstated its FOCUS report and net capital calculations by at least \$1 million on a monthly basis during such period. For example, as a result of these misclassifications, the firm overstated its net capital by approximately \$1.26 million for the month of October 2011.

The Subordinated Loans: During 2010, certain lenders extended four loans totaling \$675,000 to WJB (the "Subordinated Loans"). These loans were timely submitted to FINRA for approval and were approved.

The loans matured on February 28, 2011. At such time, the loans constituted approximately 40% of the firm's net capital. Although the maturity date was extended for each of the loans, WJB failed to obtain FINRA's approval for such extensions on a timely basis.

During the period March 2, 2011 through May 25, 2011, FINRA staff requested executed extension documentation from WJB with respect to the Subordinated Loans. Maleski advised the staff that WJB would shortly provide the documentation to FINRA. On May 25, 2011, approximately three months after the maturity dates for the loans, WJB submitted to FINRA most, but not all, of the

requested documentation. At about such time, FINRA determined not to approve the extensions. The extensions were not approved until July 2011.

Accordingly, under SEC Rule 15c3-1, the loans could not be treated as an allowable asset for net capital purposes during the period from their maturity in March of 2011 until FINRA approved them in July 2011. Nonetheless, Rothfeld and Maleski caused WJB to treat such loans as allowable capital during this time. As a result, the firm overstated the amount of its net capital in its FOCUS reports and related calculations by \$675,000 during March through July of 2011.

Clearing Firm Note: On December 29, 2010, a clearing firm loaned WJB \$1.5 million in the form of a forgivable note. The loan was made to induce WJB to enter into a clearing agreement with the firm, which WJB did.

However, Rothfeld and Maleski caused WJB to record the note as of December 31, 2010 as an allowable asset for net capital purposes. Since the loan had not yet been forgiven, this treatment violated SEC Rule 15c3-1. Moreover, as a result of this treatment, the firm misstated the amount of its net capital in its FOCUS reports and related calculations in the amount of the loan during the period January 2011 through September of 2011, when the firm stopped treating the note as valid capital.

Loan to Former Officer: In January 2006, WJB loaned \$850,000 to a retired officer of the firm. The loan was subsequently partially repaid and reduced in principal amount to \$740,000. As the loan was uncollateralized, it was a non-allowable asset for net capital purposes under SEC Rule 15c3-1.

In December 2010, WJB entered into an agreement with the retired officer pursuant to which the loan was purportedly collateralized with certain assets. These assets were contained in an account jointly maintained by the individual and his wife at a firm other than WJB.

Thereafter, from January 2011 through October 2011, Rothfeld and Maleski caused the firm to classify \$600,000 of the loan as an allowable asset. In fact, however, the loan's collateral remained in the name and under the possession and control of the aforementioned individual and his wife. Moreover, the collateral was not of sufficient quality to be deemed an allowable asset under the net capital rule. As a result, the \$600,000 portion of the loan was not adequately collateralized under SEC Rule 15c3-1 and WJB should have treated such amount as a non-allowable asset.

As a result of the above, WJB overstated the amount of its net capital in its FOCUS reports and related calculations by \$600,000 during the period January 2011 through October 2011.

SEC Rule 15c3-1 requires each broker-dealer to maintain certain minimum net

capital. The purpose of this rule is to ensure that a broker-dealer has sufficient liquidity to protect customer assets and to be able to satisfy any indebtedness to other broker-dealers. A failure to maintain a firm's required net capital constitutes a violation of Rule 15c3-1 and also a violation of NASD Rule 2110.

SEC Rule 17a-5 requires the filing of accurate FOCUS Reports. Filing an inaccurate FOCUS Report is also a violation of FINRA Rule 2010.

SEC Rule 17a-11 requires broker-dealers to give notice of a net capital deficiency on the same day that the net capital deficiency is discovered. Rule 17a-11 also requires a broker-dealer to send notice promptly (within 24 hours) after the broker-dealer's aggregate indebtedness exceeds certain levels. Under the rule, such notice must be filed by the broker-dealer with the SEC and the designated examining authority.

In connection with each of the foregoing net capital misclassifications, Rothfeld and Maleski caused WJB to misstate its FOCUS Reports, net capital computations, balance sheet and other books and records. In addition, Rothfeld and Maleski caused the firm to fail to notify regulators of the net capital deficiency on a timely basis. These individuals therefore caused the firm to violate SEC Rules 15c3-1, 17a-3, 17a-5 and 17a-11 and FINRA Rule 2010 and NASD Rule 3110(a).

Supervision

From 2009 through 2011, WJB, Rothfeld and Maleski failed to develop and implement a supervisory system with respect to the firm's financial and accounting functions that was reasonably designed to achieve compliance with securities laws and regulations, and with FINRA rules. This includes those laws, regulations and rules that are applicable to the maintenance of minimum net capital and the preparation of the firm's FOCUS Reports, books and records, and employment compensation records.

NASD Rule 3010(a) provides, in part, that [e]ach member shall establish and maintain a system to supervise the activities of each registered representative, registered principal, and other associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable NASD Rules."

Based on the foregoing, WJB, Rothfeld and Maleski violated NASD Rule 3010(a) and FINRA Rule 2010.

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

WJB: an expulsion from FINRA membership.

Rothfeld: a bar from association with any FINRA firm.

Maleski: a bar from association with any FINRA firm in any principal capacity.

Rothfeld understands that if he is barred or suspended from associating with any FINRA member, he becomes subject to a statutory disqualification as that term is defined in Article III, Section 4 of FINRA's By-Laws, incorporating Section 3(a)(39) of the Securities Exchange Act of 1934. Accordingly, he may not be associated with any FINRA member in any capacity, including clerical or ministerial functions, during the period of the bar or suspension (see FINRA Rules 8310 and 8311).

Maleski understands that if he is barred from associating with any FINRA member in a principal capacity, he becomes subject to a statutory disqualification as that term is defined in Article III, Section 4 of FINRA's By-Laws, incorporating Section 3(a)(39) of the Securities Exchange Act of 1934. Accordingly, he may not be associated with any FINRA member in such capacity during the period of the bar or suspension (see FINRA Rules 8310 and 8311). Furthermore, because he is subject to a statutory disqualification during the bar, if he remains associated with a member firm in a non-barred capacity, an application to continue that association may be required.

WJB understands that this settlement includes a finding that it failed to reasonably supervise individuals who also violated the aforementioned SEC rules and that under Article III, Section 4 of FINRA's By-Laws, this makes it subject to a statutory disqualification with respect to membership.

The sanctions imposed herein shall be effective on a date set by FINRA staff. Pursuant to FINRA Rule 8313(e), a bar or expulsion shall become effective upon approval or acceptance of this AWC.

II.

WAIVER OF PROCEDURAL RIGHTS

Respondents specifically and voluntarily waive the following rights granted under FINRA's Code of Procedure:

- A. To have a Complaint issued specifying the allegations against them;
- B. To be notified of the Complaint and have the opportunity to answer the allegations in writing;

- C. To defend against the allegations in a disciplinary hearing before a hearing panel, to have a written record of the hearing made and to have a written decision issued; and
- D. To appeal any such decision to the National Adjudicatory Council ("NAC") and then to the U.S. Securities and Exchange Commission and a U.S. Court of Appeals.

Further, Respondents specifically and voluntarily waive any right to claim bias or prejudgment of the General Counsel, the NAC, or any member of the NAC, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including acceptance or rejection of this AWC.

Respondents further specifically and voluntarily waive any right to claim that a person violated the ex parte prohibitions of FINRA Rule 9143 or the separation of functions prohibitions of FINRA Rule 9144, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including its acceptance or rejection.

III.

OTHER MATTERS

Respondents understand that:

- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs ("ODA"), pursuant to FINRA Rule 9216;
- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against them; and
- C. If accepted:
 - 1. this AWC will become part of their permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against them;
 - 2. this AWC will be made available through FINRA's public disclosure program in response to public inquiries about their disciplinary records;

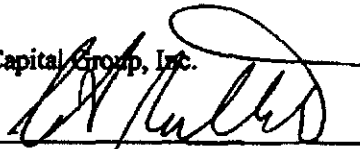
3. FINRA may make a public announcement concerning this agreement and the subject matter thereof in accordance with FINRA Rule 8313; and
 4. Respondents may not take any action or make or permit to be made any public statement, including in regulatory filings or otherwise, denying, directly or indirectly, any finding in this AWC or create the impression that the AWC is without factual basis. Respondents may not take any position in any proceeding brought by or on behalf of FINRA, or to which FINRA is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects their right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.
- D. Maleski understands that he may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. He understands that he may not deny the charges or make any statement that is inconsistent with the AWC in this Statement. This Statement does not constitute factual or legal findings by FINRA, nor does it reflect the views of FINRA or its staff.

Rothfeld and Maleski certify that they have read and understand all of the provisions of this AWC and have been given a full opportunity to ask questions about it; that they have agreed to its provisions voluntarily; and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein and the prospect of avoiding the issuance of a Complaint, has been made to induce them to submit it.

The undersigned counsel for WJB, on behalf of the firm, certifies that a person duly authorized to act on its behalf has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that he has agreed to its provisions voluntarily; and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein and the prospect of avoiding the issuance of a Complaint, has been made to induce the firm to submit it.

May 2, 2012

WJB Capital Group, Inc.

By: 

Craig A. Rothfeld
Chief Executive Officer



Craig A. Rothfeld
Individually



George Brunelle, Esq.
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Gregory S. Maleski
Individually



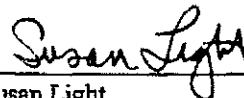
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Accepted by FINRA:

May 8, 2012

June 20, 2012

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



Susan Light

**Senior Vice President & Chief Counsel
FINRA Department of Enforcement**

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