

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Miles A. Bahl (CRD No. 10092),

Conrad R. Huss (CRD No. 2047874),

and

Christopher J. Moran (CRD No. 1095395),

Respondents.

DISCIPLINARY PROCEEDING
No. 2011027338901

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. This case arises out of fraudulent misrepresentations made by Respondents Miles Bahl and Conrad Huss in connection with the solicitation and sale of over \$3 million worth of promissory notes in a private offering to 17 of Bahl's customers between March 2006 and July 2007, and Respondent Christopher Moran's total failure to supervise the offering and sale of the notes while Respondents were associated with former member firm, du Pasquier & Co., Inc. (BD No. 24750) ("DPC" or "the Firm").

2. The notes ("EDFC Notes") were issued by Economic Development Finance Corporation ("EDFC"), a real estate development company formed in 2002 in Massachusetts. In or around August 2007, EDFC defaulted under the Notes. With one exception, EDFC failed to

pay Bahl's customers the principal due and owing under the EDFC Notes, resulting in significant losses to many customers.

3. In connection with the sale of the EDFC Notes, Bahl and Huss recklessly misrepresented to customers that the EDFC Notes were fully secured by EDFC's pledge of proceeds from the sale of certain historic rehabilitation tax credits ("HRTCs"). In addition, Bahl and Huss provided investors with documents in which EDFC falsely stated that the EDFC Notes were secured by proceeds from the HRTCs. Bahl and Huss used these materials to market the EDFC Notes to prospective investors, recklessly disregarding information indicating that EDFC's statements were false.

4. In reality, there was no collateral for the EDFC Notes because (a) the HRTCs had not even been issued at the time the proceeds were purportedly pledged by EDFC; and (b) even if the HRTCs had been issued, EDFC had no property right or interest in the purported HTRC proceeds, and therefore no ability to pledge them as collateral.

5. As set forth below, Respondents Bahl and Huss recklessly misrepresented material facts regarding the EDFC Notes to investors, in willful violation of Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") and Rule 10b-5 thereunder and in violation of NASD Conduct Rules 2120 and 2110. Respondents Bahl and Huss also recklessly, or (in the alternative) negligently, obtained money by means of an untrue statement of a material fact in contravention of Section 17(a)(2) of the Securities Act of 1933 ("Securities Act") and thus violated NASD Conduct Rule 2110 and, separately, NASD Conduct Rule 2120.

6. Further, Bahl failed to obtain basic information about EDFC and failed to consider information that he did have about EDFC, such that Bahl did not understand the nature of the Notes that he was offering to his customers. Without such information, Bahl lacked a reasonable

basis to recommend the EDFC Notes to investors, in violation of NASD Conduct Rules 2310 and 2110.

7. Respondent Moran, on behalf of DPC, failed to establish and maintain written supervisory procedures or a supervisory system concerning the offer and sale of private placements, such as the EDFC Notes. Moran also failed to supervise Huss and Bahl in connection with the offer and sale of the EDFC Notes. As a result, Moran violated NASD Conduct Rules 3010 and 2110.

8. Finally, Moran improperly caused commissions from the sale of the EDFC Notes to be paid to a non-member, who was a consultant to EDFC, in violation of NASD Conduct Rules 2420 and 2110.

RESPONDENT(S) AND JURISDICTION

Miles A. Bahl

9. Bahl first became registered with FINRA as a General Securities Representative (“GS”) through a former member firm on October 2, 1970.

10. From October 1970 through November 2003, Bahl was registered as a GS through various FINRA member and former member firms.

11. From October 31, 2005 through July 31, 2014, Bahl was registered with FINRA through former member firm du Pasquier & Co., Inc. (BD No. 24750) (“DPC” or “the Firm”).

12. Since July 31, 2014, Bahl has been associated with another member firm.

13. Under Article V of FINRA's By-Laws, FINRA possesses jurisdiction over Bahl for purposes of this proceeding because: (1) he is associated with a member firm; and (2) the

Complaint charges him with misconduct committed while he was registered with FINRA and associated with a member firm.

Conrad Huss

14. Huss first became registered with FINRA as a GS through a member firm on November 1, 1989.

15. From November 1989 through December 2000, Huss was registered as a GS through, or associated with, various FINRA member and former member firms.

16. From January 14, 2005 through October 31, 2006, Huss was registered with FINRA through DPC.

17. From November 1, 2006 through December 31, 2012, Huss was registered with FINRA through former member firms.

18. Although Respondent Huss 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 effective date of termination of Respondent Huss' registration with his last employer, namely, January 2, 2013; and (2) the Complaint charges him with misconduct committed while he was registered or associated with a FINRA member.

Christopher J. Moran

19. Moran first became registered with FINRA as a GS through a former member firm on April 1, 1989.

20. Moran became registered with FINRA as a GS on July 5, 1989, as a Financial and Operations Principal ("FINOP") on September 14, 1989, as a Registered Options Principal

(“OP”) on September 20, 1990, as a General Securities Principal (“GP”) on May 11, 1999, and as an Operations Professional (“OS”) on November 30, 2011, all through DPC. Moran’s registrations through DPC terminated on July 31, 2014.

21. Since August 2, 2014, Moran has been registered as a GS, GP, FINOP, OP and OS through another member firm.

22. Under Article V of FINRA's By-Laws, FINRA possesses jurisdiction over Moran for purposes of this proceeding because: (1) he is registered with FINRA and associated with a member firm; and (2) the Complaint charges him with misconduct committed while he was registered with FINRA and associated with a member firm.

FACTS

A. EDFC’s Engagement of DPC

23. EDFC was a Massachusetts real estate development company formed in 2002. Its principals were DP, President, and RS, Chief Operating Officer. EDFC focused on multi-unit housing or mixed-use development properties which could benefit from various types of governmental financial support, including historic rehabilitation tax credits (“HRTCs”), low income housing tax credits and direct subsidies available through state and federal programs.

24. HRTCs are issued by federal and state governments to encourage private developers and investors to restore historic buildings to productive use. They are essentially a form of government subsidy that developers use to raise financing for the rehabilitation of historic and older buildings. Developers use HRTCs to raise capital either by selling or syndicating the HRTCs, depending upon the type of HRTC involved, to an investor or group of investors. The investors benefit by claiming the tax credit on their income tax returns when the credits are issued.

25. In the spring of 2005, FSA, a consulting firm that was not a member of FINRA, contacted Moran on behalf of EDFC to learn whether DPC was interested in assisting EDFC in raising working capital. Moran referred FSA to Huss, whom Moran had hired to develop investment banking business at DPC.

26. In July 2005, Huss began conducting due diligence concerning EDFC and its main historic property rehabilitation project at the time, known as the Hadley Building. The Hadley Building was a 45 unit apartment building to be built in a historic building in Worcester, MA that once housed a furniture company. The Hadley Building was owned by Hadley Apartments LLC, not by EDFC.

27. Beginning in 2004, EDFC sought financing for the Hadley Building from private and governmental sources, including federal, state and city grants, federal and state tax credits and low-income housing loans. In 2004 and 2006, the Massachusetts Historical Commission ("MHC") conditionally awarded the Hadley Building state HRTCs. The final issuance of the HRTCs was contingent upon successful completion and approval of the project in accordance with state regulations.

28. In addition to meetings with EDFC and field visits, Huss' due diligence included reviewing, *inter alia*, documents concerning the Hadley Building, the planning and construction of the apartments, budgets, sales and rental projections, and sources of project financing, including applications for state and federal HRTCs for the Hadley Building.

29. In August 2005, Huss recommended that DPC proceed with the transaction. On or about August 22, 2005, EDFC formally retained DPC as exclusive placement agent in connection with the proposed offer and private placement by EDFC of promissory "bridge"

notes (the "Offering"). As to compensation, EDFC agreed to pay DPC a placement fee of 10% of the amount of notes sold to investors that DPC identified and a 2% expense allowance.

30. In October 2005, DPC entered into a side agreement with FSA pursuant to which DPC agreed to pay FSA 20% of the placement fees and expenses DPC received from EDFC arising from the sale of the EDFC Notes, notwithstanding the fact that FSA was not a member of FINRA or a registered broker-dealer.

B. The EDFC Offering

31. The essential terms of the EDFC Offering were set forth in a Bridge Loan Promissory Note Term Sheet (the "Term Sheet"), which Huss drafted, the EDFC Notes and related agreements provided to Investors. The Term Sheet stated that "Security Issued" was "Promissory Notes in the principal amount and having other terms described" in the Term Sheet. The EDFC Notes were for a term of one year and were to pay interest at a rate of 15% per year for a term of one year, plus a 1% fee paid to the investor at closing. The principal was to be secured by proceeds from the sale of HRTCs awarded for the Hadley Building. In addition, EDFC's two corporate officers, DP and RS, were to provide personal guarantees of EDFC's obligations under the EDFC Notes.

32. In or around March 2006, Bahl began soliciting his customers by telephone to purchase the EDFC Notes. If the customer expressed an interest, Huss, on behalf of Bahl, mailed the customer a letter for prospective investors ("Investor Letter"), which Huss also drafted, and transmitted the following documents (the "Offering Documents"):

- a. A Term Sheet;
- b. A sample Promissory Note;
- c. A sample Pledge Agreement pertaining to the collateral;

- d. A sample Assumption and Assignment Agreement pertaining to the collateral ("Assignment Agreement");
- e. A memo summarizing the requirements for and calculations of the HRTCs pertaining to the Hadley Building (the "HRTC Memo");
- f. A PowerPoint on the Hadley Building;
- g. An appraisal of the Hadley Building;
- h. A construction loan commitment letter from Amalgamated Bank;
- i. DP's personal financial statement; and
- j. RS's personal financial statement.

33. Huss, on Bahl's behalf, sent the Investment Letter and Offering Documents to 14 customers. If after receiving the Offering Documents customers decided to invest, they wired funds directly to EDFC. In return, EDFC provided the customer with an executed: (i) Note; (ii) Pledge Agreement; (iii) Assignment Agreements from DP and HS; and (iv) Guarantees from DP and HS (collectively the "Subscription Documents").

34. During the period March 2006 through July 2007, Bahl sold \$3,300,000 worth of EDFC Notes to 17 of his customers in 32 separate transactions. Annexed hereto as Exhibit A, and incorporated herein by reference, is a spreadsheet detailing the 32 sales of EDFC Notes sold to Bahl's customers.

35. When the EDFC Notes held by Bahl's customers approached maturity, EDFC informed Bahl and Moran that if customers agreed to extend the maturity date of the Notes for another year, EDFC would pay DPC an additional placement fee. Bahl subsequently advised his customers of EDFC's offer to extend the maturity date, recommended that they do so and told them, *inter alia*, that the Notes would continue to be secured by the HRTCs. Ultimately \$1.2 million (approximately 35%) of the EDFC Notes purchased by Bahl's customers were extended pursuant to an "Allonge to Promissory Note."

36. DPC received approximately \$393,000 in fees and expenses from the sale of EDFC Notes to Bahl's customers, and approximately \$156,000 in fees for extensions of EDFC Notes. Bahl earned approximately \$174,000 in net commissions from the sale of EDFC Notes, and Huss earned approximately \$44,000.

37. In addition, pursuant to the fee-sharing agreement between DPC and FSA, DPC paid FSA approximately \$91,000.

C. Respondents Bahl's and Huss' Misrepresentations Concerning the HRTCs

38. In connection with the offer and sale of the EDFC Notes, Bahl and Huss made material misrepresentations to Bahl's customers concerning the terms of the EDFC Notes. Specifically, as discussed below, Bahl and Huss falsely represented to investors that the EDFC Notes were fully secured by EDFC's pledge of its rights to proceeds from the sale of federal and Massachusetts HRTCs for the Hadley Building.

1. Bahl's Oral Misrepresentations

39. Beginning in March 2006, Bahl solicited his customers to purchase EDFC Notes by falsely assuring each of his customers that the EDFC Notes were fully secured by proceeds from the sale of HRTCs awarded for the Hadley Building. Bahl told his customers if EDFC defaulted, investors could be paid back from the HRTC proceeds.

40. In addition, when Bahl recommended to his customers that they extend the maturity dates of their EDFC Notes for one year, he again falsely assured each of them that the Notes would continue to be fully secured by the Hadley Building HRTCs.

2. Huss' Written Misrepresentations

41. Huss made material misrepresentations to Bahl's customers concerning the terms of the EDFC Notes in documents that he prepared. Specifically, Huss drafted the Investment Letters sent to customers stating that the "proposed collateral" for the EDFC Notes included "Proceeds from the historical tax credits (federal and state)." Huss also drafted the Term Sheet, in which he falsely stated that the "Collateral" for the EDFC Notes included "Approved state and federal historic tax credits."

D. Misleading Documents Disseminated by Bahl and Huss

42. In addition to their own misrepresentations, Bahl and Huss marketed the EDFC Notes by using documents prepared by EDFC that also falsely stated that the EDFC Notes were collateralized by HRTC, specifically the Assignment Agreement and the Pledge Agreement included in the Offering Documents.

1. Assignment Agreement

43. The Assignment Agreement that Respondents Bahl and Huss provided to investors reinforced their false statements concerning the collateral. Preliminarily, the Assignment Agreement falsely asserted that DP and RS were the "holders" of the HRTCs. Specifically, the Assignment Agreement, in the recital provisions, stated:

WHEREAS, the Assignor [DP or RS] is the holder of certain income tax credits awarded by the Government of the United States of America as well as the Commonwealth of Massachusetts for the Assignor's work in connection with the restoration, rehabilitation and/or preservation of certain buildings and other structures recognized as "historic" by the Federal and/or State government (collectively the "Tax Credits").

44. The Assignment Agreement stated that, in connection with the Offering, EDFC was being assigned "Assignor's right, title and interest to any future proceeds upon the sale, transfer

or assignment of the Tax Credits (the 'Tax Credit Proceeds')." EDFC would in turn pledge that interest in the proceeds as collateral by way of a pledge agreement, discussed below.

45. Accordingly, each time an EDFC Note was sold, DP and RS were to execute an Assignment Agreement, pursuant to which each agreed, as Assignor, to assign "all of his right, title and interest to any future Tax Credit Proceeds actually received by Assignor (and not to the actual Tax Credits) to Assignee [EDFC] up to a maximum amount of [one-half the amount of the note]."

46. However, as discussed below, neither DP nor RS were ever "holders" of the HRTCs that they purportedly would be assigning to EDFC and, therefore, the Assignment Agreement contained untrue statements of material fact that were false and misleading.

2. Pledge Agreement

47. Similarly, under the Pledge Agreement, which was also provided to customers, EDFC purportedly gave investors a security interest in the proceeds of the HRTCs to secure payments under the EDFC Note. In particular, the Pledge Agreement states:

WHEREAS, the Pledgor is the owner of all of the right, title and interest of the proceeds from the future sale of certain income tax credits (up to the amount of the Loan Amount) awarded by the Government of the United States of America as well as the Commonwealth of Massachusetts to [DP and RS] (principals of the Pledgor) for their work in connection with the restoration, rehabilitation and/or preservation of certain buildings and other structures recognized as "historic" by the Federal and/or State government pursuant to certain Assignment and Assumption Agreements of even date (collectively the "Tax Credit Proceeds");

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and in consideration of the mutual covenants and agreements herein contained, the parties hereto mutually agree as follows:

1. Pledge. As collateral security for the payment of the aforesaid Loan, the Pledgor hereby grants a security interest in and to any future Tax Credit Proceeds that Pledgor

receives. The Pledgor represents and warrants that it has the right and power to pledge said Tax Credit Proceeds.

48. The representations made in the Pledge Agreement are false and misleading because, as discussed below, EDFC did not have the “right and power to pledge” the HRTCs to investors.

49. As the foregoing demonstrates, Bahl and Huss repeatedly assured investors, in oral communications, in the Investment Letter, in the Term Sheet, and in the Assignment and Pledge Agreements, that an investment in the EDFC Notes would be completely secured by EDFC’s pledge of the proceeds from the sale of HRTCs. These statements were materially false and misleading.

E. EDFC Could Not Legally Pledge the Proceeds from the Hadley Building HRTCs to Investors in 2006-2007

50. EDFC never had any rights to the HRTC proceeds that it supposedly pledged as collateral. Under federal law and Massachusetts law, HRTCs can only be issued to a person or entity that holds title to the subject property. EDFC had no ownership interest in the subject property – the Hadley Building.

51. The Hadley Building was owned by an entity called Hadley Apartments LLC. Hadley Apartments LLC was 80% owned by KDN Development LLC and WesVen LLC. DP owned KDN Development LLC and RS owned WesVen LLC.

52. Neither DP nor RS owned or held title to the Hadley Building. Accordingly, neither DP nor RS could assign the HRTC proceeds to EDFC as they had represented in the Assignment Agreement. Therefore, EDFC could not pledge the HRTC proceeds to investors as represented in the Pledge Agreement.

53. Respondents Bahl and Huss also misled investors by representing that the HRTC proceeds were available to secure a default under the EDFC Notes at the time they were issued because HRTCs cannot be issued until a historic rehabilitation project is completed. The Hadley Building was not completed until 2009, at which time HRTCs for the Hadley Building were issued.

54. The assignments of the HRTC proceeds occurred in 2006 and 2007, long before any Hadley Building HRTCs were issued in 2009. The Assignment Agreement purported to assign rights in the proceeds “of certain income tax credits [the HRTCs] awarded by the Government of the United States of America as well as the Commonwealth of Massachusetts”

55. In sum, EDFC could not legally pledge the proceeds of the Hadley Building HRTCs to Bahl’s investors. Accordingly, all of the statements representing that the EDFC Notes were secured by the proceeds of the future sale of HRTCs, *i.e.*, Bahl’s oral statements to customers, Huss’s written statements in the Investment Letter and Term Sheet, and EDFC statements in the relevant agreements, were false and misleading.

F. Bahl’s Reckless Disregard of Red Flags Concerning the HRTCs

56. Although Bahl solicited customers to purchase millions of dollars of EDFC Notes purportedly secured by HRTCs, Bahl had no prior training or experience regarding tax credits of any kind.

57. To familiarize himself with the EDFC Offering, Bahl purportedly reviewed (i) the Offering Documents; (ii) documents from the National Park Service (“NPS”) describing the federal HRTC program; (iii) letters from the Massachusetts Historical Commission (“MHC”) concerning the applications for state HRTCs; (iv) unaudited financial statements of EDFC for 2005 and 2006; and (v) EDFC’s 2005 tax returns (collectively “Background Documents”).

58. Bahl also made at least one visit to the Hadley Building prior to July 2007.

59. The information provided to Bahl contained numerous red flags that should have made him aware that EDFC could not have pledged the proceeds of the Hadley Building HRTCs as collateral for the EDFC Notes.

60. First, the Background Documents indicated that federal and Massachusetts HRTCs can only be issued to the person or entity that holds title to the subject property.

61. The Background Documents further indicated that DP, RS and EDFC did not hold title to the subject property, i.e., the Hadley Building.

62. The Background Documents further indicated, among other things, that neither federal nor Massachusetts HRTCs could be issued until a rehabilitation project was completed. Bahl knew at the time he was recommending the EDFC Notes to his customers that the Hadley Building had not been completed.

63. Accordingly, the Background Documents indicated to Bahl that, at the time the EDFC Notes were sold, they were unsecured because EDFC could not have actually pledged the proceeds of the Hadley Building HRTCs as collateral for the EDFC Notes.

64. Bahl's failure to conduct any follow-up investigation regarding these red flags amounted to willful blindness as to the availability of the Hadley Building HRTCs as security for the EDFC Notes. He was therefore reckless in offering securities on the basis of representations concerning the Hadley Building HRTCs made orally and in the Investor Letter, Term Sheet, Assignment Agreement and Pledge Agreement.

65. Moreover, because Bahl recklessly failed to conduct a reasonable investigation into the EDFC offering, he did not understand that offering and therefore he did not have a reasonable basis to recommend the EDFC Notes to his customers.

G. Huss' Reckless Disregard of Red Flags Concerning the HRTCs

66. Huss also had no prior experience or training regarding tax credits. As part of his due diligence, Huss received the same Background Documents provided to Bahl, plus additional due diligence documents consisting of, *inter alia*, correspondence, presentations concerning the planning and construction of the Hadley Building and applications for federal and Massachusetts HRTCs. Most notably, Huss was given a copy of the HRTC application, which explicitly stated that Hadley Apartments LLC, not EDFC, was the owner of the Hadley Building. Huss also visited the Hadley Building in connection with his due diligence.

67. As with Bahl, the documents and information provided to Huss indicated, among other things (i) that federal and Massachusetts HRTCs could only be issued to the person or entity that holds title to the subject property; (ii) that DP, RS and EDFC did not hold title to the Hadley Building; (iii) that federal and Massachusetts HRTCs could not be issued until a rehabilitation project was completed; and (iv) that the project was not completed.

68. Huss knew or should have known that at the time the EDFC Notes were sold, EDFC could not have actually pledged the proceeds of the Hadley Building HRTCs as collateral for the EDFC Notes.

69. Huss' failure to conduct any follow-up investigation regarding these red flags amounted to willful blindness as to the availability of the Hadley Building HRTCs as security for the EDFC Notes. He was therefore reckless in making material misrepresentations and offering

securities on the basis of representations concerning the Hadley Building HRTCs made in the Investor Letter, Term Sheet, Assignment Agreement and Pledge Agreement.

FIRST CAUSE OF ACTION
(Misrepresentations of Material Facts - Willful Violations of
Exchange Act §10(b) and Rule 10b-5 thereunder and
Violations of NASD Conduct Rules 2120 and 2110)
(Bahl and Huss)

70. The Department realleges and incorporates by reference paragraphs 69 above.

71. Section 10(b) of the Exchange Act and Rule 10b-5 thereunder make it unlawful for any person, by the use of any means or instrumentality of interstate commerce, or of the mails, to, among other things, make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, in connection with the purchase or sale of a security.

72. NASD Rule 2120 provides that “[n]o member shall effect any transaction in, or induce the purchase or sale of, any security by means of any manipulative, deceptive or other fraudulent device or contrivance.”

73. The EDFC Notes were securities.

74. During the period from March 2006 through July 2007, in connection with the purchase and sale of securities, as detailed in Exhibit A, Respondent Bahl committed fraud by recklessly misrepresenting to investors that the EDFC Notes were fully secured by proceeds from the sale of HRTCs for the Hadley Building, and that if EDFC defaulted on the Notes, investors could expect to be paid back from the HRTC sale proceeds.

75. These representations were false and misleading at the time they were made.

76. During the period from March 2006 through October 2006, in connection with the purchase and sales of securities, as detailed in Exhibit A, Respondent Huss committed fraud by recklessly misrepresenting to investors (i) in the Investor Letter that Huss prepared, that the collateral for the EDFC Notes included “proceeds from the historical tax credits (federal and state);” and (ii) in the Term Sheet that Huss prepared, that collateral for the EDFC Notes included approved state and federal historic tax credits.

77. These representations were false and misleading at the time they were made.

78. The above misrepresentations were material. Whether an investment is secured by collateral or is entirely unsecured is information that a reasonable investor would consider important.

79. In the course of marketing and selling the EDFC Notes, Respondents made use of means or instrumentalities of interstate commerce and of the mails. Specifically, Respondents made use of, among other things, the telephone, sent subscription documents to the customers using the mails, and caused customers to wire funds to invest in the Offering.

80. By reason of the foregoing, Respondents willfully violated §10(b) of the Exchange Act and Rule 10b-5 thereunder and also violated NASD Conduct Rules 2120 and 2110.

SECOND CAUSE OF ACTION
(Use of Interstate Commerce for Purpose of Fraud or Deceit –
Violations of Securities Act §17(a)(2) and NASD Conduct
Rules 2120 and 2110)
(Bahl and Huss)

81. The Department realleges and incorporates by reference paragraphs 80 above.

82. Section 17(a)(2) of the Securities Act states in relevant part that “[it] shall be unlawful for any person in the offer or sale of any securities ... by the use of any means or

instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly— to obtain money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.”

83. NASD Rule 2120 provides that “[n]o member shall effect any transaction in, or induce the purchase or sale of, any security by means of any manipulative, deceptive or other fraudulent device or contrivance.”

84. The EDFC Notes are securities.

85. During the period from March 2006 through July 2007, Respondent Bahl violated these rules in connection with the offer and sale of securities as detailed in Exhibit A. In particular, Bahl recklessly or (in the alternative) negligently (a) misrepresented to investors that the EDFC Notes were fully secured by proceeds from the sale of HRTCs for the Hadley Building, and that if EDFC defaulted, investors could expect to be paid back from the HRTC proceeds; and (b) provided investors with an Assignment and Assumption Agreement and a Pledge Agreement in which EDFC falsely represented that the HRTCs had been awarded and that the Notes would be secured by EDFC’s interest in proceeds from the HRTCs.

86. These representations were false and misleading at the time they were made.

87. During the period from March 2006 through October 2006, Respondent Huss violated these rules in connection with the offer and sale of securities as detailed in Exhibit A. In particular, Huss recklessly or (in the alternative) negligently (a) misrepresented to investors (i) in the Investor Letter that the collateral for the EDFC Notes included “proceeds from the historical tax credits (federal and state);” and (ii) in the Term Sheet that collateral for the EDFC Notes

included approved state and federal historic tax credits; and (b) provided investors with an Assignment and Assumption Agreement and a Pledge Agreement in which EDFC falsely represented that the HRTCs had been awarded and that the Notes would be secured by EDFC's interest in proceeds from the HRTCs.

88. These representations were false and misleading at the time they were made.

89. The above misrepresentations were material.

90. In the course of marketing and selling the EDFC Notes, Respondents made use of means or instrumentalities of interstate commerce and of the mails. Specifically, Respondents made use of, among other things, the telephone, sent subscription documents to the customers using the mails and caused customers to wire funds to invest in the Offering.

91. By reason of the foregoing, Respondents acted in contravention of Securities Act §17(a)(2), thereby violating NASD Conduct Rule 2110, and also independently violated NASD Conduct Rules 2120 and 2110.

THIRD CAUSE OF ACTION
(Reasonable Basis Suitability – Violations of NASD Conduct
Rules 2310 and 2110)
(Bahl)

92. The Department realleges and incorporates by reference paragraphs 91 above.

93. NASD Conduct Rule 2310 requires that when a member recommends to a customer the purchase, sale or exchange of any security, a member shall have reasonable grounds for believing that the recommendation is suitable for such customer upon the basis of the facts disclosed by such customer as to his financial situation and needs. Under NASD Conduct Rule 2310, a broker-dealer and its registered representatives must satisfy a "reasonable basis" suitability requirement, pursuant to which they must understand the recommended security or

strategy and the risks involved and determine whether the recommendation is suitable for at least some investors.

94. Bahl did not satisfy his reasonable basis suitability obligations with respect to the EDFC Notes. Bahl lacked a reasonable basis to recommend EDFC Notes to his customers in light of: (a) his lack of understanding of and investigation into the HRTCs and whether they were available to secure the EDFC Notes, and (b) the multiple “red flags” surrounding the Offering, as described above, which Bahl did not take the time to understand or investigate.

95. By failing to understand the risks and benefits of the securities that he was recommending to his customers, Bahl could not make the appropriate reasonable basis suitability determination required under the rules.

96. Nevertheless, Bahl recommended the EDFC Notes to 17 of his customers.

97. By reason of the foregoing, Bahl violated NASD Conduct Rules 2310 and 2110.

**FOURTH CAUSE OF ACTION
(Improper Sharing of Commissions with a Non-Member –
NASD Conduct Rules 2420 and 2110)
(Moran)**

98. The Department realleges and incorporates by reference paragraphs 97 above.

99. NASD Conduct Rule 2420 prohibits FINRA members from paying any commissions or fees derived from securities transactions to any non-member.

100. As noted above, in October 2005, DPC entered into an agreement with FSA, who was not a FINRA member or a registered broker-dealer, pursuant to which DPC agreed to pay FSA transaction-based compensation consisting of 20% of the fees and expenses that DPC received from EDFC arising from the sale of the EDFC Notes.

101. Pursuant to that fee-sharing agreement between DPC and FSA, from November 2005 through October 2007, Moran caused DPC to pay FSA approximately \$91,000 in transaction-based compensation.

102. By improperly sharing securities transaction-based compensation with a non-member, Moran violated NASD Conduct Rules 2420 and 2110.

**FIFTH CAUSE OF ACTION
(Failure to Supervise – NASD Conduct Rules 3010 and 2110)
(Respondent Moran)**

103. The Department realleges and incorporates by reference paragraphs 102 above.

104. NASD Conduct Rule 3010(a) requires firms to 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 and FINRA rules.

105. NASD Conduct Rule 3010(b) provides that “[e]ach member shall establish, maintain, and enforce written procedures to supervise the types of business in which it engages and to supervise the activities of registered representatives, registered principals, and other associated persons that are reasonably designed to achieve compliance with applicable securities laws and regulations, and with the applicable Rules of NASD.”

106. During the period March 2006 through July 2007, Moran was the principal responsible for ensuring that DPC’s written procedures complied with NASD Conduct Rule 3010(b). Moran also was responsible for supervising Huss and Bahl.

107. During the period March 2006 through July 2007, Moran, on behalf of DPC, failed to establish, maintain or enforce a reasonable supervisory system or written procedures in

connection with the firm's private placement business. In fact, DPC had no written procedures at all addressing the offering and sale of private placements.

108. Moreover, Moran completely failed to supervise Huss or Bahl concerning their activities in connection with the offer and sale of the EDFC Notes.

109. By reason of the foregoing, Moran violated NASD Conduct Rules 3010(a), 3010(b) and 2110.

RELIEF REQUESTED

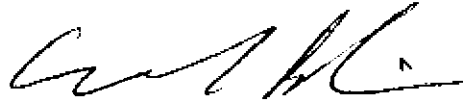
WHEREFORE, the Department respectfully requests that the Panel:

- 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) be imposed, including that Respondents be required to disgorge fully any and all ill-gotten gains and/or make full and complete restitution, together with interest;
- 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 Bahl and Huss willfully violated §10(b) of the Exchange Act and Rule 10b-5 thereunder.

FINRA DEPARTMENT OF ENFORCEMENT

DATED: December 8, 2014

Respectfully submitted,



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EXHIBIT A

Exhibit A
Sales of EDFC Notes to Bahl's Customers

Sale No.	Name of Investor	Date of Investment	Amount
1	CD	3/24/06 * ¹	\$250,000
2	J & M R	3/28/06 *	\$50,000
3	SA	4/6/06 *	\$100,000
4	J & C S	4/20/06 *	\$50,000
5	PG	4/20/06 *	\$75,000
6	G & M R	4/26/06 *	\$25,000
7	J & M S	4/26/06 *	\$75,000
8	KL	5/19/06 *	\$50,000
9	J & M R (2 ND)	6/6/06 *	\$50,000
10	JS	6/8/06 *	\$50,000
11	DK	6/9/06 *	\$125,000
12	DS	7/6/06 *	\$50,000
13	AW	8/2/06	\$25,000
14	BF MPP	8/3/06	\$25,000
15	BF PSP	8/3/06	\$25,000
16	BD	8/9/06	\$250,000
17	KB	8/25/06	\$25,000
18	DK (2 ND)	9/19/06	\$25,000
19	SA (2 ND)	11/2/06 *	\$250,000
20	PT	12/12/06	\$200,000
21	PG (2 ND)	12/28/06	\$25,000
22	BF AS	1/5/07	\$50,000
23	CD (2 ND)	4/5/07	\$250,000

¹ " * " Indicates that the Note's maturity date was extended pursuant to an Allonge.

Sale No.	Name of Investor	Date of Investment	Amount
24	SA (3 RD)	4/9/07	\$300,000
25	DK (3 RD)	4/12/07	\$275,000
26	AB	4/14/07	\$100,000
27	LM IRA	4/20/07	\$25,000
28	WF IRA	4/20/07	\$50,000
29	AK	5/1/07	\$50,000
30	K & J B (2 ND)	5/10/07	\$100,000
31	JS (2 ND)	6/5/07	\$50,000
32	BD (2 ND)	7/2/07	\$250,000