

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

DAVID FRANCIS MICKELSON,
(CRD No. 2187596)

Respondent.

Disciplinary Proceeding
No. 2011027481901

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. While he was associated with FINRA member firm NFP Securities, Inc. (NFP), Respondent David Francis Mickelson (Mickelson) created, promoted, and managed a Regulation D 506 fund, the Micro Pipe Fund I, LLC (the Micro Pipe Fund). Mickelson deliberately concealed this activity from NFP, even as he raised approximately \$8.3 million from approximately 71 investors and collected nearly \$1 million in compensation from the Micro Pipe Fund.
2. Mickelson repeatedly ignored NFP's written supervisory procedures and FINRA's rules, both in managing the Micro Pipe Fund and in conducting his own investments. In addition to the Micro Pipe Fund, Mickelson participated in six other undisclosed private securities transactions. He also failed to disclose to NFP 15 outside brokerage accounts that he controlled; and, in one of these accounts, he improperly purchased shares in an Initial Public Offering.

3. Additionally, Mickelson misrepresented to investors the value of holdings of the Micro Pipe Fund. Mickelson also promoted the Micro Pipe Fund and other investments using misleading and unapproved websites and advertisements and communicated with customers using email accounts not approved or monitored by NFP.

RESPONDENT AND JURISDICTION

4. Mickelson entered the securities industry in 1991 as an associated person of a FINRA member firm. He became registered as an Investment Company and Variable Contracts Products Representative in November 1991 and as a General Securities Representative in March 1996. From March 1, 2004 until May 20, 2011, Mickelson was associated with NFP.
5. Although Mickelson 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 Mickelson's registration with NFP, May 20, 2011; and (2) the Complaint charges him with misconduct committed while he was registered with a FINRA member firm.

FIRST CAUSE OF ACTION Private Securities Transactions (NASD Conduct Rules 3040 and 2110 and FINRA Rule 2010)

6. The Department realleges and incorporates by reference paragraphs 1 through 5 above.
7. At various times from in or about August 2007 through in or about October 2009, Mickelson participated in private securities transactions outside the scope of his association with NFP without providing the firm prior written notice of the proposed transactions or his proposed role in them, as set out more fully below.

8. NASD Conduct Rule 3040 provides that an associated person may not participate in any securities transaction outside of the regular course of his employment with his member firm without first providing written notice to the member describing in detail the proposed transaction and his proposed role and stating whether he has received or may receive selling compensation for the transaction.
9. NFP's written supervisory procedures in effect from July 2009 through May 2011 required NFP registered representatives to provide notification to and receive written approval from the NFP compliance department before engaging in a private securities transaction, regardless of whether compensation to the registered representative was anticipated.
10. Mickelson established the Micro Pipe Fund in or about August 2007.
11. Mickelson was the president of Micro Pipe Capital Management, LLC, which managed the Micro Pipe Fund from the Micro Pipe Fund's inception in or about August 2007 through about June 2009.
12. Mickelson is the president of Mickelson Investment Management, LLC, which has managed the Micro Pipe Fund from about June 2009 through at least October 2009.
13. Beginning in August 2007 and continuing until at least October 2009, the Micro Pipe Fund raised approximately \$8,343,571 from approximately 71 investors. Mickelson solicited the investments and signed the subscription agreements on behalf of the Micro Pipe Fund.
14. An investment in the Micro Pipe Fund is a security.
15. Mickelson received compensation for his participation in the sales of the Micro Pipe Fund.
16. Prior to participating in the foregoing private securities transactions, Mickelson did not provide written notice to NFP of his proposed roles in, or the selling compensation he may receive from, the transactions.

17. Mickelson also did not receive the requisite approval from NFP to participate in the transactions.
18. On the NFP Annual Certification and Acknowledgement Questionnaires that Mickelson submitted for 2007 and 2008, Mickelson falsely represented that he had not engaged in private securities transactions away from NFP without prior written approval of the compliance department.
19. As a result of the foregoing conduct, Mickelson violated NASD Conduct Rules 3040 and 2110 (with respect to conduct occurring before December 15, 2008) and FINRA Rule 2010 (with respect to conduct occurring on or after December 15, 2008).

**SECOND CAUSE OF ACTION
Private Securities Transactions
(NASD Conduct Rules 3040 and 2110 and FINRA Rule 2010)**

20. The Department realleges and incorporates by reference paragraphs 1 through 19 above.
21. In addition to the private securities transactions detailed in paragraph 13 above, at various times from in or about March 2006 to in or about November 2010, Mickelson also participated in six additional private securities transactions on behalf of himself or various entities he controlled. These six transactions were outside the scope of Mickelson's association with NFP, and he did not provide the firm prior written notice of the proposed private securities transactions or his proposed role in them, as set forth more fully below.

Transactions on Behalf of Hannahlu Ventures, LP

22. Mickelson was the manager and part owner of a family limited partnership entitled Hannahlu Ventures, LP. He had the authority to sign checks and enter into agreements on behalf of Hannahlu Ventures, LP.

23. Mickelson participated in the following private securities transactions as the manager of Hannahlu Ventures, LP by signing private placement agreements and checks for these investments:

NAME	DATE	AMOUNT
The Nutmeg Fund/ Michael Fund LLLP	March 2006	\$50,000
The Nutmeg/Fortuna Fund, LP	July 2006	\$100,000
The Nutmeg/Patriot Fund, LLLP	October 2006	\$100,000
Micro Pipe Fund I, LLC	September 2007	\$100,000
Micro Pipe Fund I, LLC	January 2010	\$100,000

24. The investments detailed in paragraph 23 are securities.
25. Prior to participating in the foregoing private securities transactions, Mickelson did not provide written notice to NFP of his proposed roles in, or the selling compensation that he may receive from, the transactions.
26. Mickelson also did not receive the requisite approval from NFP to participate in the transactions.

Lone Wolf, Inc.

27. During the period of in or about September 2010 through in or about November 2010, Mickelson, through DFM Agency, LLC, an entity wholly owned by Hannahlu Ventures, LP, made the following investments in Lone Wolf, Inc.

DATE	AMOUNT
September 1, 2010	\$20,000
September 8, 2010	\$30,000
October 27, 2010	\$17,000
November 15, 2010	\$33,000

28. Mickelson signed the "Agreement to Purchase Equity" in Lone Wolf, Inc. on behalf of DFM Agency, LLC as "President of the managing member."
29. An investment in Lone Wolf, Inc. is a security.

30. Prior to participating in the foregoing private securities transactions, Mickelson did not provide written notice to NFP of his proposed role in, or the selling compensation that he may receive from, the transactions.
31. Mickelson also did not receive the requisite approval from NFP to participate in the transactions.
32. On five NFP Annual Certification and Acknowledgement Questionnaires that Mickelson submitted for the years 2006 through 2010, Mickelson falsely represented that he had not engaged in private securities transactions away from NFP without prior written approval of the compliance department. In fact, Mickelson had not disclosed to NFP any of the transactions listed above.
33. As a result of the foregoing conduct, Mickelson violated NASD Conduct Rules 3040 and 2110 (with respect to conduct occurring before December 15, 2008) and FINRA Rule 2010 (with respect to conduct occurring on or after December 15, 2008).

THIRD CAUSE OF ACTION
Undisclosed Outside Business Activities
(NASD Conduct Rules 3030 and 2110 and FINRA Rule 2010)

34. The Department realleges and incorporates by reference paragraphs 1 through 33 above.
35. From September 2007 through October 2009, Mickelson engaged in business activities for compensation outside of the scope of his relationship with NFP without providing prompt written notice of these activities to the firm, as set forth more fully below.
36. NASD Rule 3030 provides that no associated person “shall be employed by, or accept compensation from, any other person as a result of any business activity, other than a passive investment, outside the scope of his relationship with his employer firm, unless he has provided prompt written notice to the member.”

37. NFP's written supervisory procedures in effect from July 2009 through May 2011 require that a registered representative formally disclose to NFP's compliance department any business activity outside the scope of his employment with NFP and receive a written acknowledgement of the activity before commencing the activity.

Micro Pipe Capital Management, LLC

38. From the inception of the Micro Pipe Fund in or about August 2007 through in or about June 2009, Micro Pipe Capital Management, LLC was the manager of the Micro Pipe Fund.
39. Mickelson was the president of Micro Pipe Capital Management, LLC.
40. Mickelson received compensation for his role as president of Micro Pipe Capital Management, LLC.
41. Mickelson failed to provide NFP with written notice of his participation in this business activity.
42. On the NFP Annual Certification and Acknowledgement Questionnaires that Mickelson submitted for 2007 and 2008, Mickelson falsely represented that he had disclosed all outside business activities to NFP.

Mickelson Investment Management, LLC

43. On or about June 12, 2009, the Micro Pipe Fund issued a new Private Placement Memorandum stating that Mickelson Investment Management, LLC would serve as the Micro Pipe Fund's manager and investment advisor.
44. From on or about June 12, 2009 through at least October 7, 2009, Mickelson was the president of Mickelson Investment Management, LLC.

45. From about June 2009 to the present, Mickelson Investment Management, LLC has been the manager and investment advisor for the Micro Pipe Fund.
46. Mickelson received compensation for his role as president of Mickelson Investment Management, LLC.
47. From the inception of the Micro Pipe Fund in or about August 2007 through on or about September 30, 2011, the two managers, Micro Pipe Capital Management, LLC and Mickelson Investment Management, LLC, received approximately \$944,000 in compensation from the Micro Pipe Fund.
48. Mickelson failed to provide NFP with prompt written notice of his participation in this business activity, and only on or about October 7, 2009, more than two years after he first became associated with the Micro Pipe Fund and more than three months after Mickelson Investment Management, LLC had taken over as manager and investment advisor for the Micro Pipe Fund, did Mickelson disclose to NFP the existence of Mickelson Investment Management, LLC and that it managed a Regulation D fund.
49. As a result of the foregoing conduct, Mickelson violated NASD Conduct Rules 3030 and 2110 (with respect to conduct occurring before December 15, 2008) and FINRA Rule 2010 (with respect to conduct occurring on or after December 15, 2008).

FOURTH CAUSE OF ACTION
Transactions for or by Associated Persons
(NASD Conduct Rules 3050 and 2110 and FINRA Rule 2010)

50. The Department realleges and incorporates by reference paragraphs 1 through 49 above.
51. While Mickelson was associated with NFP, he failed to disclose to NFP 15 brokerage accounts at other broker-dealers which he or members of his immediate family owned or

over which they exercised control. Mickelson also failed to disclose his affiliation with NFP to the broker-dealers at which the accounts were held.

52. NASD Rule 3050 provides that an associated person “prior to opening an account or placing an initial order for the purchase or sale of securities with another member, shall notify both the employer member and the executing member, in writing, of his or her association with the other member; provided, however, that if the account was established prior to the association of the person with the employer member, the associated person shall notify both members in writing promptly after becoming so associated.”
53. NFP’s written supervisory procedures in effect from July 2009 to May 2011 require that an associated person must disclose to NFP’s compliance department and the executing firm that the associated person or member of his immediate family intends to open an account away from NFP before opening the account.

Fiserv Account No. xxxx330/TD Ameritrade Account Nos. xxx-xxx962, xxx-xxx484

54. Prior to March 2007, Mickelson opened an account in the name of “David Mickelson Roth IRA” at Fiserv. The account was assigned account number xxxx330. The account moved to TD Ameritrade on or about August 2008, and was assigned account number xxx-xxx962. On or about June 2009, the account number became xxx-xxx484.
55. Mickelson engaged in securities transactions in this account.
56. Mickelson failed to disclose the existence of this account to NFP, including in four Annual Certifications he submitted to the firm for the years 2007 through 2010, until May 2011.

Fiserv Account No. xxxx234 /TD Ameritrade Account Nos. xxx-xxx970, xxx-xxx496

57. Prior to December 2006, Mickelson’s wife C. M. opened an account in the name “C. M. Roth IRA” at Fiserv. The account was assigned account number xxx234. The account

moved to TD Ameritrade on or about August 2008, and assigned account number xxx-xxx970. On or about June 2009, the account number became xxx-xxx496.

- 58. C. M. engaged in securities transactions in this account.
- 59. Mickelson failed to disclose the existence of this account to NFP, including in four Annual Certifications he submitted to the firm for the years 2007 through 2010, until May 2011.

West Park Capital, Inc. Account No. xxxx-0196

- 60. On or about January 2010, Mickelson opened an account in the name of “David Mickelson TTEE Mickelson Living Trust Dated 01/14/2000” at West Park Capital, Inc. Mickelson signed the account application. The account was assigned account number xxxx-0196.
- 61. Mickelson engaged in securities transactions in this account.
- 62. Mickelson failed to disclose the existence of this account to NFP, including in the Annual Certification, dated March 3, 2011, that he submitted to the firm for 2010, until May 2011.

Morgan Stanley Smith Barney Account No. xxx-xxxxxx-037

- 63. In or about June 2010, Mickelson opened an account in the name of “David Mickelson” at Morgan Stanley Smith Barney. The account was assigned account number xxx-xxxxxx-037.
- 64. On the new account form for the Morgan Stanley Smith Barney account number xxx-xxxxxx-037, Mickelson falsely answered “No” to the question “Employed by exchange or by a member firm.” At the time he completed the new account form, Mickelson was associated with NFP.
- 65. Mickelson engaged in securities transactions in this account.
- 66. Mickelson failed to disclose the existence of this account to NFP, including in the Annual Certification, dated March 3, 2011, that he submitted to the firm for 2010, until May 2011.

Fidelity Account No. xxx-xxx874

67. On or about September 2010, Mickelson opened an account in the name of “David Mickelson SEP IRA” at Fidelity Investments. The account was assigned account number xxx-xxx874.

68. The new account form for the Fidelity account number xxx-xxx874 stated:

Check this box if you are affiliated with, or employed by, a stock exchange or a member firm of an exchange or FINRA, a municipal securities dealer or Fidelity. If you checked the box, obtain and attach the compliance officer's letter of approval (“407 letter”) and indicate your company's name and address below. Failure to include an approval letter may delay the processing of your request. We must tell your employer you have applied for this account.

69. Mickelson failed to check the box indicating he was affiliated with a FINRA member firm. At the time he completed and signed the new account form, Mickelson was associated with NFP.

70. Mickelson engaged in securities transactions in this account.

71. Mickelson failed to disclose the existence of this account to NFP, including in the Annual Certification, dated March 3, 2011, that he submitted to the firm for 2010, until May 2011.

Fidelity Account No. xxx-xxx815

72. On or about September 2010, Mickelson opened an account in the name of “David Mickelson & C. M. TTEE Mickelson Living Trust dated 12/14/2000” at Fidelity. Mickelson was listed as the “primary owner/custodian/trustee” and signed the application. The account was assigned account number xxx-xxx815.

73. The new account form for the Fidelity account number xxx-xxx815 stated:

Check this box if you are affiliated with, or employed by, a stock exchange or a member firm of an exchange or FINRA, a municipal securities dealer or Fidelity. If you checked the box, obtain and attach the compliance officer's letter of approval (“407 letter”) and indicate your company's name and address below. Failure to include an approval letter

may delay the processing of your request. We must tell your employer you have applied for this account.

- 74. Mickelson failed to check the box indicating he was affiliated with a FINRA member firm. At the time he completed and signed the new account form, Mickelson was associated with NFP.
- 75. Mickelson engaged in securities transactions in this account.
- 76. Mickelson failed to disclose the existence of this account to NFP, including in the Annual Certification he submitted to the firm for 2010, until May 2011.

Fidelity Account No. xxx-xxx882

- 77. On or about September 2010, C. M. opened an account in the name of “C. M. Roth IRA” at Fidelity. The account was assigned account number xxx-xxx882.
- 78. C. M. engaged in securities transactions in this account.
- 79. Mickelson failed to disclose the existence of this account to NFP, including in the Annual Certification he submitted to the firm for 2010, until May 2011.

Fidelity Account No. xxx-xxx904

- 80. On or about September 2010, C. M. opened an account in the name of “C. M. SEP IRA” at Fidelity. The account was assigned account number xxx-xxx904.
- 81. C. M. engaged in securities transactions in this account.
- 82. Mickelson failed to disclose the existence of this account to NFP, including in the Annual Certification he submitted to the firm for 2010, until May 2011.

SMH Capital Accounts No. xxxx-xxx015/xxx-xxx865

- 83. On or about February 2008, Mickelson opened an account at SMH Capital in the name of the Micro Pipe Fund. The new account form was signed by Mickelson as the managing

principal of the Micro Pipe Fund. The account was assigned account number xxxx-xxx015.

84. On the new account form for SMH Capital account number xxxx-xxx015, Mickelson falsely answered “No” to the question “Are you or any member of your immediate family affiliated with or employed by a member of a Stock Exchange or The National Association of Securities Dealers? (*Employer authorization is required to open this account.*) If yes, what company?” At the time he completed and signed the new account form, Mickelson was associated with NFP.
85. On or about December 2009, Mickelson opened an account in the name of the Micro Pipe Fund at SMH Capital. Mickelson signed the new account form on behalf of the Micro Pipe Fund. The account was assigned account number xxx-xxx865.
86. On the new account form for SMH Capital account number xxx-xxx865, Mickelson falsely answered “No” to the question “Are you, your spouse, or other immediate family members: employed by or associated with the securities industry (e.g., a sole proprietor, partner officer, director, employee, or agent of a broker-dealer or investment advisor) or a financial regulatory agency? If yes, please specify below and provide a letter from your employer approving the establishment of the account.” At the time he completed and signed the new account form, Mickelson was associated with NFP.
87. Mickelson failed to disclose the existence of these accounts to NFP, including in three Annual Certifications he submitted to the firm for the years 2008 through 2010.

Aegis Capital Account No. xxx-xxx64-11

88. On or about August 2008, Mickelson opened an account in the name of the Micro Pipe Fund at Aegis Capital. Mickelson signed the new account form on behalf of the Micro Pipe Fund. The account was assigned account number xxx-xxx64-11.
89. Securities transactions were effected in this account.
90. Mickelson failed to disclose the existence of this account to NFP, including in three Annual Certifications he submitted to the firm for the years 2008 through 2010.

Aegis Capital Account No. xxx-xxx37-15

91. On or about August 2008, Mickelson opened an account in the name of the Micro Pipe Fund at Aegis Capital. Mickelson signed the new account form on behalf of the Micro Pipe Fund. The account was assigned account number xxx-xxx37-15.
92. Mickelson failed to disclose the existence of this account to NFP, including in three Annual Certifications he submitted to the firm for the years 2008 through 2010.

WestPark Capital Account No. xxxx-x014

93. On or about October 2008, Mickelson opened an account in the name of the Micro Pipe Fund at WestPark Capital. The account was assigned account number xxxx-x014.
94. Securities transactions were effected in this account.
95. Mickelson failed to disclose the existence of this account to NFP, including in three Annual Certifications he submitted to the firm for the years 2008 through 2010.

C.K. Cooper & Company Account No. xxxx-x551

96. On or about October 2010, Mickelson opened an account in the name of the Micro Pipe Fund at C.K. Cooper & Company. Mickelson signed the new account form on behalf of the Micro Pipe Fund. The account was assigned account number xxxx-x551.

97. Mickelson effected securities transactions in this account.
98. On the new account form for C.K. Cooper & Company account number xxxx-x551, Mickelson falsely answered “No” to the question “Are you or a member of your household affiliated with or employed by a member of, or employed directly by a securities firm, exchange or any of its affiliated companies, this would include affiliations to an employee of C.K. Cooper & Company? If yes, please specify the company name and address to which duplicate statements and confirmations should be sent.” At the time he completed and signed the new account form, Mickelson was associated with NFP.
99. Mickelson failed to disclose the existence of this account to NFP, including in the Annual Certification he submitted to the firm for the year 2010.

Transcend Capital Account No. xxxx-x760

100. On or about December 2010, Mickelson opened an account in the name of the Micro Pipe Fund at Transcend Capital. Mickelson signed the customer account agreement and other account opening documents on behalf of the Micro Pipe Fund. The account was assigned account number xxxx-x760.
101. Mickelson effected securities transactions in this account.
102. On the new account approval form for Penson Financial Services, the clearing firm for Transcend Capital account number xxxx-x760, Mickelson left blank the question “Associated person of a broker?” At the time he completed and signed the form, Mickelson was associated with NFP.
103. Mickelson failed to disclose the existence of this account to NFP, including in the Annual Certification he submitted to the firm for the year 2010.

Regal Securities Account No. xxxx-x613

104. On or about March 2011, Mickelson opened an account in the name of the Micro Pipe Fund at Regal Securities. Mickelson was listed as a joint applicant and signed the customer agreement as the managing member of the Micro Pipe Fund. The account was assigned account number xxxx-x613.
105. Mickelson effected securities transactions in this account.
106. At the time Mickelson completed and signed the customer agreement for Regal Securities Account number xxxx-x613, he was associated with NFP. Mickelson failed to disclose the existence of this account to NFP.
107. As a result of the foregoing conduct, Mickelson violated NASD Conduct Rules 3050 and 2110 (with respect to conduct occurring before December 15, 2008) and FINRA Rule 2010 (with respect to conduct occurring on or after December 15, 2008).

**FIFTH CAUSE OF ACTION
Restrictions on the Purchase of Initial Equity Public Offerings
(FINRA Rules 5130 and 2010)**

108. The Department realleges and incorporates by reference paragraphs 1 through 107 above.
109. FINRA Rule 5130 provides that a person associated with a member generally may not purchase a new issue in any account in which such person has a beneficial interest, with limited exceptions.
110. As detailed previously in paragraphs 63 to 66, in or about June 2010, Mickelson opened an account in the name of "David Mickelson" at Morgan Stanley Smith Barney. The account was assigned account number xxx-xxxxxxx-037.
111. On the new account form for the Morgan Stanley Smith Barney account number xxx-xxxxxxx-037, Mickelson falsely answered "No" to the question "Employed by exchange or

by a member firm.” At the time he completed and signed the new account form, Mickelson was associated with NFP.

- 112. On or about June 30, 2010, Mickelson was allocated and purchased 500 shares of Tesla Motors, Inc. during the initial public offering of Tesla. These shares were deposited into the Morgan Stanley Smith Barney account number xxx-xxxxxx-037.
- 113. Mickelson was associated with NFP in June 2010.
- 114. None of the limited exceptions to FINRA Rule 5130 were met.
- 115. As a result of the foregoing conduct, Mickelson violated FINRA Rules 5130 and 2010.

**SIXTH CAUSE OF ACTION
Misrepresentations or Material Omissions of Fact
(NASD Conduct Rule 2110 and FINRA Rule 2010)**

- 116. The Department realleges and incorporates by reference paragraphs 1 through 115 above.
- 117. Mickelson negligently made untrue statements of material facts and/or omitted to state material facts necessary to make statements and representations, in light of the circumstances in which they were made, not misleading, in connection with customers’ investments in the Micro Pipe Fund.
- 118. Mickelson, as the managing member of both the Micro Pipe Fund’s managers, provided investors in the Micro Pipe Fund with monthly balance sheets and investor account statements for the Micro Pipe Fund.
- 119. In at least two instances, because of improper valuation of the Micro Pipe Fund’s positions, Mickelson provided investors in the Micro Pipe Fund with monthly balance sheets and investor account statements that were false and misleading, as detailed below.

Spooz, Inc.

120. The Micro Pipe Fund signed a Secured Convertible Note Agreement with Spooz, Inc. on October 31, 2007, reflecting a total investment of \$415,000: \$100,000 on July 30, 2007; \$100,000 on August 25, 2007; \$125,000 on September 27, 2007; and \$90,000 that had been committed but not paid as of October 31, 2007. The Micro Pipe Fund paid Spooz, Inc. the final \$90,000 payment in December 2007.
121. The Micro Pipe Fund was to receive shares of stock in Spooz, Inc. in return for the \$90,000 it committed to pay as of October 31, 2007.
122. The shares of stock in Spooz, Inc. that the Micro Pipe Fund was to receive in return for the \$90,000 were never received by the Micro Pipe Fund.
123. The Micro Pipe Fund computed the following gains based on the market price of the stock that the Fund anticipated receiving in return for the \$90,000 investment, but did not receive: October 2007, \$82,907; November 2007, \$123,473; and December 2007, \$182,256.
124. The Micro Pipe Fund's balance sheet and investor account statements during this time period falsely reflected the following regarding the Micro Pipe Fund's investments in Spooz, Inc., including the \$90,000 investment:

SPOOZ, INC.	SEPT. 07	OCT. 07	NOV. 07	DEC. 07
Invested	\$125,000	\$125,000	\$215,000	\$475,000
Payable	\$200,000	\$290,000	\$200,000	\$0
Appreciation	\$343,505	\$172,106	\$170,724	\$253,197
Total	\$668,505	\$587,106	\$585,724	\$728,197

125. From October through December 2007, the Micro Pipe Fund included on its monthly balance sheet and investor account statements unrealized gains from a \$90,000 investment

in Spooz, Inc. for which the corresponding shares of stock had not been received and were never received by the Micro Pipe Fund.

126. The Micro Pipe Fund's private placement memorandum dated August 20, 2007 (2007 PPM) did not disclose that shares for which the Micro Pipe Fund had paid, but which were not delivered by the issuer, would be valued in this way.

Yinlips Technology, Inc.

127. On or about October 19, 2008, the Micro Pipe Fund purchased 454,545 shares of restricted stock in Yinlips Technology, Inc. for \$500,000.
128. The Micro Pipe Fund purchased these shares with the expectation that Yinlips Technology, Inc. would conduct an initial public offering.
129. To date, Yinlips Technology, Inc. has not conducted an initial public offering.
130. As of September 30, 2011, the shares of Yinlips Technology, Inc. had no market value.
131. As of September 30, 2011, the Micro Pipe Fund's balance sheet and investor account statements falsely reflected the value of the shares of Yinlips Technology, Inc. as \$245,454.30.
132. The Micro Pipe Fund's private placement memorandum dated June 12, 2009 (2009 PPM) did not disclose a methodology for valuing shares that have no market value.
133. By misrepresenting and omitting facts in communications with investors, Mickelson violated NASD Conduct Rule 2110 (with respect to conduct occurring before December 15, 2008) and FINRA Rule 2010 (with respect to conduct occurring on or after December 15, 2008).

SEVENTH CAUSE OF ACTION
Failing to Comply With Advertising Rule Standards
(NASD Conduct Rules 2210(b) and 2110 and FINRA Rule 2010)

134. The Department realleges and incorporates by reference paragraphs 1 through 133 above.
135. NASD Conduct Rule 2210(b)(1) requires that a registered principal must approve each advertisement, item of sales literature, or independently prepared reprint before it is either used or filed with FINRA's Advertising Regulation Department. Websites are defined as advertisements in NASD Conduct Rule 2210(a)(1).
136. NFP's written supervisory procedures in effect from July 2009 through May 2011 required NFP registered representatives to submit all advertising, including websites, to NFP's Advertising Department and to obtain approval before use.
137. While registered through NFP, Mickelson maintained the following websites:
mickelsoninvestmentmanagement.com/mickinvest.com (both domain names lead to the same website); astuteasset.com; and mickelsonlife.com (collectively, the Websites).
138. The Websites contained securities-related communications with the public. For example, mickinvest.com contained detailed discussions of private investment in public equity (PIPE) funds, as well as an accredited investor questionnaire that could be completed and submitted online. Mickelsonlife.com contained detailed discussions of life settlements, including customer testimonials, targeted to seniors who might consider selling a life insurance policy. Astuteasset.com also contained detailed discussions of life settlements, but focused on potential investors.
139. The Websites were not password-protected, but were freely accessible to the public.
140. Mickelson did not disclose the Websites to NFP.

141. The Websites were not reviewed and approved by a registered principal of NFP prior to use.
142. As a result of this conduct, Mickelson violated NASD Conduct Rules 2210(b) and 2110 (with respect to conduct occurring before December 15, 2008) and FINRA Rule 2010 (with respect to conduct occurring on or after December 15, 2008).

EIGHTH CAUSE OF ACTION
Misleading Communications with the Public
(NASD Conduct Rules 2210(b), 2210(d), and 2110, NASD IM-2210-1 and FINRA Rule 2010)

143. The Department realleges and incorporates by reference paragraphs 1 through 142 above.
144. Mickelson engaged in misleading communications with the public, as detailed below.
145. NASD Rule 2210(b)(1) requires that a registered principal must approve each advertisement, item of sales literature, or independently prepared reprint before it is either used or filed with FINRA's Advertising Regulation Department.
146. NASD Rule 2210(d)(1)(B) prohibits false, exaggerated, unwarranted or misleading statements or claims in any communication with the public.
147. NASD Rule 2210(d)(2)(B) requires that any comparison between investments must disclose all material differences between them.
148. NASD Rule 2210(d)(1)(A) provides, among other things, that all member communications with the public must be fair and balanced, provide a sound basis for evaluating the securities or products being discussed, and not omit material information which would cause the communications to be misleading.
149. NASD IM-2210-1 makes it clear that "a statement made in one context may be misleading even though such a statement could be appropriate in another context. An essential test in this regard is the balanced treatment of risks and potential benefits."

The Content of Mickelson's Website mickelsonlife.com

150. The content of Mickelson's website mickelsonlife.com contravened NASD Rule 2210(d) in that it made statements that created unrealistic expectations by using misleading, exaggerated or unwarranted language and making incomplete disclosures in its comparisons, including:
- a) The reference to "predictable IRR" in the section "Monetizing Life Insurance" is unwarranted because the internal rate of return is dependent on when the insured dies and, therefore, is not predictable;
 - b) "From an investment perspective, a life insurance contract can be viewed like a special form of corporate bond." This is an oversimplified and incomplete comparison;
 - c) "Policy sellers receive five to 10 times generally the cash surrender value in a life settlement" is an incomplete disclosure; and
 - d) "Case Studies" that are oversimplified, incomplete, and misleading; for example, one "Case Study" described as "70+ year old man overpaying for Life Insurance" gave results of "saved \$19,000 annual premiums (70%); retained full \$2,000,000 life insurance coverage; and coverage guaranteed for life" without discussing the details of the policies at issue, the health status of the insured, or giving any disclaimers.

The Content of PowerPoint Presentation "Micro PIPE Fund I"

151. While registered through NFP, Mickelson, through Mickelson Investment Management, LLC, distributed to potential investors a PowerPoint presentation dated March 2011 entitled "Micro PIPE Fund I" (the Micro PIPE Presentation).
152. The Micro PIPE Presentation contained securities-related communications with the public.

153. The content of the Micro PIPE Presentation violated NASD Rule 2210(d)(1)(B) in that it made statements that created unrealistic expectations by using misleading, exaggerated or unwarranted language, including:

- a) “Micro PIPE Fund I seeks double digit, short term capital appreciation;”
- b) “Consistent high quality deal flow;”
- c) “Jan. 2011—Investment Committee 19 month track record: 50% ROI on 28 investments;”
- d) “Current Investment Committee Results (Inception-June 2009) ... % ROI 48% ... 7 Months;” and
- e) “Growth of \$100,000 and Micro PIPE Fund I Performance.”

154. The content of the Micro PIPE Presentation violated NASD Rule 2210(d)(1)(A) and IM-2210-1 in that it made statements and claims that appear incomplete and oversimplified, including:

- a) “No leverage employed;”
- b) “Portfolio Characteristics and Structure” conflict with the risks stated in the 2009 PPM;
- c) “Micro PIPE Fund I strategy delivering strong cash flow ... Performance turn-around executed and gaining momentum ... Micro PIPE Fund I targets annualized net returns of 20% plus;”
- d) “Diversified Number of holdings – minimizes concentration risk;”
- e) “Fair valuation methodology – PIPE deals can be illiquid and investors should be confident in how assets are valued. Mickelson has a rational and transparent approach to derive fair value of unrealized gains/losses;”

- f) “To minimize illiquidity, Mickelson seeks investments in companies with adequate trading volume expectations;”
- g) “MP achieves 70% return in first four months;”
- h) “Fund achieves 15% return and \$6mm AUM;” and
- i) “1st investments made under new guidelines with \$1mm in capital deployed valued of \$1.7mm by Dec. 31st, 2009.”

155. Mickelson did not disclose the Micro PIPE Presentation to NFP.

156. The Micro PIPE Presentation was not reviewed and approved by a registered principal of NFP prior to use, as required by NASD Rule 2210(b)(1).

The Content of “Tricks to PIPE Investing”

157. While registered through NFP, Mickelson, through Mickelson Investment Management, LLC, distributed to potential investors a brochure entitled “Tricks to PIPE Investing.”

158. “Tricks to PIPE Investing” contained securities-related communications with the public.

159. The content of “Tricks to PIPE Investing” violated Rule 2210(d)(1)(A) and IM-2210-1 in that it made statements and claims that appear incomplete and oversimplified, including:

- a) “The Micro Pipe Fund is not leveraged;”
- b) “By maintaining a diversified portfolio, MIM seeks to reduce concentration risk. In addition, a rigorous and consistent valuation methodology ensures that a holding’s fair value is derived from a realistic assessment of its risk profile;” and
- c) “... this extensive transaction experience helps ensure the best terms and efficient management. By marrying operational insight and process expertise, the Manager creates a strong competitive advantage in selecting and managing PIPE deals.”

160. Mickelson did not disclose “Tricks to PIPE Investing” to NFP.

161. “Tricks to PIPE Investing” was not reviewed and approved by a registered principal of NFP prior to use as required by NASD Rule 2210(b)(1).
162. As a result of the foregoing conduct, Mickelson violated NASD Conduct Rules 2210(b), 2210(d) and 2110 (with respect to conduct occurring before December 15, 2008), NASD IM-2210-1 and FINRA Rule 2010 (with respect to conduct occurring on or after December 15, 2008).

**NINTH CAUSE OF ACTION
Failure to Maintain Electronic Mail
(NASD Rule 3110 and FINRA Rule 2010)**

163. The Department realleges and incorporates by reference paragraphs 1 through 162 above.
164. While Mickelson was registered with NFP, from on or about August 18, 2009 to on or about May 20, 2011, he sent and received securities-related emails using several email accounts that were not approved by NFP. These email accounts were at the following domains: mickelsoncapitalconsulting.com; micropipe.us; mickinvest.com; and astuteasset.com.
165. During that same period, Mickelson also sent and received securities-related emails using an email account at the domain mickcap.com. NFP had approved Mickelson’s use of email at the domain mickcap.com for his registered investment advisor business, with the instruction that all securities-related correspondence would go through his NFP email account.
166. Mickelson did not routinely forward to NFP any of the securities-related emails sent or received by all five email accounts.

167. NASD Conduct Rule 3110(a) requires member firms to make and preserve books, accounts, records, memoranda and correspondence in conformity with Exchange Act Rules 17a-3 and 17a-4.
168. Mickelson did not maintain these communications in a format that complied with SEC Rule 17a-4(f).
169. By using these email accounts to exchange securities-related emails, Mickelson prevented NFP from accessing these communications and complying with its obligations under NASD Conduct Rule 3010(d) to review correspondence between registered representatives and their customers.
170. By using these email accounts to exchange securities-related emails and failing to either forward the communications to NFP or to otherwise maintain the communications in a format that complied with SEC Rule 17a-4(f), Mickelson prevented NFP from complying with its recordkeeping requirements as required by Section 17(a) of the Securities Exchange Act of 1934, SEC Rule 17a-4, NASD Rule 3110 and FINRA Rule 2010.
171. As a result of the foregoing conduct, Mickelson violated NASD Rule and FINRA Rule 2010 (with respect to conduct occurring on or after December 15, 2008).

RELIEF REQUESTED

WHEREFORE, the Department respectfully requests that the Panel:

- A. Make findings of fact and conclusions of law that Respondent 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 Respondent be required to disgorge fully any and all ill-gotten gains, together with interest; and

- B. Order that one or more of the sanctions provided under FINRA Rule 8310(a) be imposed, including that Respondent be required to disgorge fully any and all ill-gotten gains, together with interest; and
- C. Order that Respondent bear such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330.

FINRA DEPARTMENT OF ENFORCEMENT

Date: April 11, 2013

Rebecca L. Segrest

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Admitted in NY and NJ Only