

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

Department of Enforcement,

Complainant,

v.

Cabot Lodge Securities LLC (CRD No.
159712),

Respondent.

Disciplinary Proceeding
No. 2014041541401

Hearing Officer—MC

**ORDER ACCEPTING OFFER OF
SETTLEMENT**

Date: April 6, 2021

INTRODUCTION

Disciplinary Proceeding No. 2014041541401 was filed on January 2, 2020, by the Department of Enforcement of the Financial Industry Regulatory Authority (FINRA or Complainant). Respondent Cabot Lodge Securities LLC submitted an Offer of Settlement (Offer) to Complainant dated April 5, 2021. Pursuant to FINRA Rule 9270(e), the Complainant and the National Adjudicatory Council (NAC), a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs (ODA) have accepted the uncontested Offer. Accordingly, this Order now is issued pursuant to FINRA Rule 9270(e)(3). The findings, conclusions and sanctions set forth in this Order are those stated in the Offer as accepted by the Complainant and approved by the NAC.

Under the terms of the Offer, Respondent has consented, without admitting or denying the allegations of the Complaint, 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, to the entry of findings and violations consistent with the allegations of the Complaint, and to the imposition of the sanctions set forth below, and fully understands that this Order will become part of

Respondent's permanent disciplinary record and may be considered in any future actions brought by FINRA.

BACKGROUND

Respondent has been a FINRA member since August 2012. Headquartered in New York, Respondent employs approximately 182 registered representatives in approximately 117 branch offices. It is a full service broker-dealer, although most of its revenues derive from underwriting. Respondent operates under an independent contractor model, and its customer base is almost exclusively retail.

FINRA has jurisdiction over Respondent, pursuant to Article IV, Section 1(a)(1) of the By-Laws and FINRA Rule 0140 as Respondent is a FINRA member.

FINDINGS AND CONCLUSIONS

It has been determined that the Offer be accepted and that findings be made as follows:

SUMMARY

From August 2012 to February 2016 (the "Relevant Period"), Cabot Lodge Securities LLC ("Cabot Lodge" or the "Firm") participated in an initial public offering ("IPO") of a non-traded real estate investment trust (the "REIT") in which the amount of organization and offering expenses ("O&O") exceeded fair and reasonable limits, and compensation to Cabot Lodge representatives was not disclosed. These failures resulted largely from the Firm's failure to supervise its underwriting and sales of the REIT, which was its main product during the Relevant Period. The Firm also made an unsuitable recommendation to an elderly customer.

Cabot Lodge sought to become dealer manager for the REIT's IPO nine months after it launched. At that time, O&O expenses well exceeded reasonable limits under FINRA Rules, and Cabot Lodge submitted a plan to FINRA to address them. However, Firm personnel ignored

their duty under the plan and FINRA Rules to adopt controls and to monitor O&O expenses. The amount of overall O&O expenses well exceeded 15 percent of the gross offering proceeds, and the underwriting compensation portion of the O&O expenses well exceeded 10 percent of the gross offering proceeds excluding securities purchased through the reinvestment of distributions. As a result, Cabot Lodge participated in a public offering in which the O&O expenses were not fair and reasonable in violation of FINRA Rules 2310(b)(4) and 2010.

In addition, Cabot Lodge participated in the IPO even though restricted shares of the REIT's common stock awarded to persons related to the Firm were not disclosed in certain offering prospectuses as items of underwriting compensation, and the Firm did not have reasonable grounds to believe that such items were disclosed, in violation of FINRA Rules 5110(c), 2310(b)(3), and 2010.

These violations resulted from Cabot Lodge's failure to establish, maintain and enforce a supervisory system, including written procedures, reasonably designed to achieve compliance with FINRA Rules 5110 and 2310, in violation of FINRA Rules 3110(a) and (b) and 2010, and NASD Rule 3010(a) and (b).

Finally, in violation of FINRA Rules 2111(a) and 2010, Cabot Lodge did not have a reasonable basis to believe that its January 2016 recommendation that an elderly customer invest in the REIT was suitable based upon his investment profile.

FACTS

JF and EV Form Cabot Lodge to Sell the REIT

In late 2011, through a holding company, JF and EV formed the REIT. JF served as Chief Executive Officer, Secretary and Chairman of the Board of Directors, and EV served as

President, Treasurer and Director. They formed an advisor to the REIT (“the Advisor”) to operate and manage the REIT.

In October 2011, through a holding company, JF and EV formed Cabot Lodge for the purpose of acting as a captive dealer manager for the REIT.

Cabot Lodge was approved for FINRA membership in August 2012.

**The REIT Commences a \$1.2 Billion IPO While
Cabot Lodge’s FINRA Registration is Pending and Initially
Engages Another Broker-Dealer ABP, Inc. as its IPO Dealer Manager**

In December 2011, the REIT filed a registration statement with the Securities and Exchange Commission (SEC) for an IPO of 100,000,000 shares. The offering anticipated raising \$1.1 billion, and an additional \$190 million through its distribution reinvestment program (“DRIP”), which permitted holders of the REIT’s common stock to use any monthly cash distribution they received from the REIT to purchase additional shares during the offering period.

When the REIT filed its registration statement with the SEC, Cabot Lodge’s registration with FINRA had not yet been approved, so the REIT engaged an unaffiliated FINRA member firm, ABP, Inc., to act as dealer manager on a best efforts basis.

The IPO commenced on August 15, 2012 with the filing of a prospectus (“August 2012 Prospectus”).

According to the plan of distribution set forth in the August 2012 Prospectus, the IPO would terminate on August 15, 2014. If the REIT failed to sell all the shares offered in its primary offering, it could — and eventually did — extend the primary offering period for an additional year.

**Cabot Lodge Sells the REIT's Shares as a Downstream Broker-Dealer
Until the IPO is Suspended Because ABP, Inc. Withdraws as Dealer Manager**

After Cabot Lodge's FINRA registration was approved in August 2012, it began to serve as a downstream broker-dealer pursuant to an agreement with ABP, Inc. In that capacity, registered representatives of Cabot Lodge marketed and sold shares of the REIT.

In May 2013, ABP, Inc. was forced to withdraw as the dealer manager for the IPO due to a failure to meet its net capital requirements following a \$1.6 million arbitration award.

On May 24, 2013, Cabot Lodge notified FINRA by letter of its intent to replace ABP, Inc. as dealer manager. Between May 30, 2013 and September 20, 2013, the IPO was suspended while FINRA considered Cabot Lodge's request to replace ABP, Inc. as the dealer manager.

**FINRA's Review of Cabot Lodge's Request for a "No Objections"
Opinion Raises Undisclosed Compensation Issues**

FINRA's Corporate Financing Department ("Corporate Financing") reviews arrangements relating to compensation in public offerings and may issue a "no objections" opinion regarding the reasonableness of the proposed terms and arrangements.

ABP, Inc. obtained a "no objections" opinion from Corporate Financing in August 2012, prior to serving as dealer manager for the IPO.

Prior to taking over as dealer manager, Cabot Lodge likewise sought a "no objections" letter from Corporate Financing. However, Cabot Lodge's May 24, 2013 letter to Corporate Financing acknowledged that "the fixed expenses incurred have resulted in the underwriting compensation being in excess of the 10% underwriting limit" contained in FINRA Rule 2310. To assist Corporate Financing's review, the letter purported to enclose "the actual organization and offering expenses incurred to date."

In a June 4, 2013, telephone call with Cabot Lodge’s counsel, Corporate Financing requested information regarding excessive O&O and underwriting compensation expenses incurred by the REIT.

In response, on July 10, 2013, Cabot Lodge submitted to Corporate Financing a “Plan to Absorb the Underwriting Compensation Overage” (the “Overage Plan”). The Overage Plan also included representations regarding the O&O expenses, including underwriting compensation, incurred as of May 24, 2013.

On August 21, 2013, JF and counsel representing Cabot Lodge disclosed, for the first time to FINRA, that representatives of Cabot Lodge received underwriting compensation in the form of restricted shares of the REIT. These shares were not previously disclosed in the registration statement or IPO prospectuses.

The Firm provided details regarding the undisclosed underwriting compensation in an August 30, 2013 letter to Corporate Financing.

Corporate Financing explicitly declined to issue a “no objections” opinion to Cabot Lodge on grounds that further inquiry into its compliance with FINRA rules at the conclusion of the IPO may be required.

At the time, Cabot Lodge’s written supervisory procedures (“WSPs”) required that “[p]rior to offering the REIT [the Firm] must receive a ‘no objections’ opinion regarding the proposed terms and arrangements in the offering.”

On September 20, 2013, the Firm took over as dealer manager for the IPO and acted in that capacity through the termination of the offering.

The IPO is a Failure, and Control of the REIT is Transferred to FCREI, LLC

The \$1.2 billion IPO was not well-received by the market and, through March 31, 2015, had raised only \$25.1 million in gross offering proceeds.

In August 2015, with the IPO nearing its termination, the REIT filed a registration statement for a follow-on offering with maximum aggregate gross proceeds of \$50 million. At the same time, it extended the termination date of its IPO until the earlier of December 21, 2015 or the date the SEC approved the follow-on registration statement.

On September 21, 2015, the REIT filed a Form 8-K announcing a series of transactions that resulted in FCREI, LLC acquiring control of both the REIT and the Advisor. The REIT also announced that it had suspended its share repurchase program effective September 15, 2015.

As part of the sale, JF resigned his positions with the REIT and the Advisor but was appointed chief investment officer of the REIT and entered into a consulting arrangement with the Advisor.

FCREI, LLC subsequently changed the name of both the REIT and the Advisor.

JF and EV continued to control Cabot Lodge through a holding company after the sale of interests in the REIT and the Advisor to FCREI, LLC. In February 2016, the holding company sold Cabot Lodge to a new owner.

In October 2015, the REIT further extended the termination date of the IPO to the earlier of February 11, 2016 or the date of approval of the follow-on registration statement.

The FCREI, LLC transaction continued to do little to attract investors. On February 12, 2016, the REIT filed a letter with the SEC announcing that it would not be going forward with the follow-on offering and representing that no shares had been sold pursuant to the follow-on registration statement.

The IPO raised \$48,245,095 in gross aggregate proceeds, and the DRIP program raised an additional \$1,483,297, for total gross offering proceeds of \$49,728,392.

**Cabot Lodge Sold Shares in the IPO Notwithstanding
that the Prospectus and Other Filings Failed to Disclose
Restricted Stock Awards to Cabot Lodge Representatives**

From January 2012 through April 2013, Cabot Lodge or the Advisor executed agreements to award 697,500 restricted shares of the REIT's common stock to 14 persons associated with Cabot Lodge. From the commencement of the IPO through its termination, nine of those persons received 49,745 fully-vested shares of the REIT's common stock with a total vesting value of \$576,237.

None of the 14 agreements were disclosed in any filing with the SEC until September 20, 2013.

The 14 agreements involved two types of restricted shares:

- a. "Retention Shares" were to be granted on the first date the REIT's stock was sold to the public and would vest over a four or five-year period beginning on the first anniversary of the first sale date to the public.
- b. "Incentive Shares" were fully-vested common stock shares in the REIT that would be granted over a three-year period starting on the first anniversary of the representative's hire date. The number of shares to be awarded was based upon the amount of the representative's sales of the REIT's shares.

Prior to the commencement of the IPO in August 2012, but after the filing of the Registration Statement in December 2011, the Advisor or the Firm entered into contracts with five registered representatives who were hired to build out the management and supervision team of Cabot Lodge while its FINRA application was pending. The compensation provisions of

these contracts provided for the award of restricted shares of the REIT. All five representatives were awarded Retention Shares and one of the representatives was also awarded Incentive Shares. In total, these five representatives were awarded 205,000 Retention Shares and 50,000 Incentive Shares.

In April 2013, while the IPO was ongoing, the Advisor entered into contracts with eight additional registered representatives and one non-registered associated person, all of whom became associated with Cabot Lodge shortly after executing their contracts. All nine representatives were employed dually with both the Advisor and Cabot Lodge, and their primary responsibility was to wholesale the REIT's shares to other broker-dealers. All nine representatives were awarded Retention Shares and six of the representatives were also awarded Incentive Shares. In total, these representatives were awarded 255,000 Retention Shares and 187,500 Incentive Shares.

None of the restricted share awards were disclosed in the nine prospectuses, and the supplements thereto, that were filed in connection with the IPO from August 15, 2012 through September 19, 2013.

On September 20, 2013, the REIT filed a prospectus (the "September 2013 Prospectus") that, for the first time, disclosed some of the restricted shares awarded to Cabot Lodge representatives. The September 2013 Prospectus disclosed that the REIT "agreed to award an aggregate of 275,000 retention-based restricted shares and an aggregate of 187,500 incentive restricted shares to certain officers and associated persons of Cabot Lodge" during the six months ended June 30, 2013.

The September 2013 Prospectus, however, still made no reference to the Retention Shares (originally 205,000) and Incentive Shares (originally 50,000) awarded to five Cabot

Lodge representatives prior to the commencement of the IPO. Three of those individuals, representing 95,000 Retention Shares and 50,000 Incentive Shares, were associated with the Firm when the September 2013 Prospectus was filed.

Subsequent prospectuses and supplements merely repeated the disclosure of 275,000 Retention Shares and 187,500 Incentive Shares.

During the time Cabot Lodge participated as a downstream broker-dealer and, beginning in late September 2013, the dealer manager of the IPO, Section 17.2 of Cabot Lodge's WSPs required that the Firm confirm that all "items of compensation" and other material facts were disclosed in the prospectus:

Due Diligence. The Investment Banking Manager is responsible for reviewing prospectuses on any proposed REIT offerings. Prior to participating in a public offering of a REIT, the Firm must have reasonable grounds to believe that all material facts are adequately and accurately disclosed and provide a basis for evaluating the program. . . .

. . .

The Investment Banking Manager must ensure the following minimum material facts are disclosed in the prospectus:

- items of compensation

(Emphasis removed.)

From October 2012 through March 2015, Cabot Lodge's President and Chief Executive Officer was listed in the Firm's WSPs as its Investment Banking Manager ("IBM"). He was aware of the pre-IPO awards of restricted stock because, among other things, he was one of the five representatives who received awards.

The O&O Expenses for the IPO Were Excessive

The total O&O expenses incurred through the termination of the IPO were \$14,019,027, or 28.2 percent of the \$49,728,392 in gross proceeds raised in the public offering.

Of this amount, \$7,652,046, related to underwriting compensation, including \$576,237 related to the fully-vested shares of the REIT's common stock granted to Cabot Lodge associated persons during the offering period. The underwriting compensation was 15.9 percent of the IPO's gross proceeds excluding that raised through the DRIP.

Pursuant to Section 17.3 of the WSPs, the IBM was required to "review" O&O expenses to ensure they did not exceed "15% of the gross proceeds of the offering." Section 17.3 also required the IBM to ensure that underwriting compensation stayed within the 10 percent limitation set forth in FINRA Rule 2310 and related FINRA guidance:

Underwriting compensation from whatever source paid to underwriters, broker-dealers or affiliates is limited to 10% of the gross proceeds of the offering. The 10% limit is included as part of the 15% limit on organization and offering expenses.

The O&O expenses for the IPO were nearly double the limit of 15 percent of gross proceeds, and the underwriting compensation was over 50 percent greater than the limit of 10 percent of gross proceeds, allowed under Rule 2310, FINRA guidance, and the Firm's WSPs.

Nobody at Cabot Lodge reviewed or monitored the overall O&O expenses, or the underwriting compensation portion, to ensure that they did not exceed the thresholds set forth above or for any other reason.

The Firm had no controls in place to review or monitor such expenses for compliance purposes.

In a June 4, 2013 telephone call regarding Cabot Lodge's request to take over as dealer manager from ABP, Inc., Corporate Financing requested that the Firm address how it planned to stay within the 15 percent limit:

What is Cabot Lodge's plan to be in compliance with the 10% underwriting compensation limit and the 5% issuer costs limit at the conclusion of the offering if the maximum offering proceeds are not raised?

In response, on July 10, 2013, Cabot Lodge, submitted a “Plan to Absorb the Underwriting Compensation Overage” (the “Overage Plan”) to Corporate Financing detailing how the Firm planned to remain in compliance with the underwriting compensation limits of FINRA Rule 2310 “on a going forward basis.” The Overage Plan explained:

Cabot expects that it will be able to absorb all of the Excess Underwriting Compensation [*i.e.*, the amount exceeding 10 percent of the IPO’s gross offering proceeds] and be in compliance with . . . Rule 2310 . . . when the Offering has raised a total of approximately \$80,000,000 in gross proceeds. However, if Cabot . . . cannot absorb all of the Excess Underwriting Compensation during the remainder of the selling period, . . . then Cabot will be responsible for reimbursing the Issuer any then existing amounts over the 10% underwriting compensation limit.

The Overage Plan represented that “Cabot has developed internal controls that will allow it to monitor on-going underwriting and compensation and Issuer Expenses.”

However, the Firm did not have any such controls.

The Overage Plan further provided that “policies and procedures have been established” to monitor expenses that “will be undertaken weekly until the Excess Underwriting Compensation has been absorbed” The procedures required, for example, that the Firm’s compliance team meet with REIT executives on a weekly basis to discuss projected sales and determine the maximum amount that could be incurred for variable expenses. However, the Firm never implemented the policies and procedures set forth in the Overage Plan, whether into its WSPs or otherwise.

On August 21, 2013, Corporate Financing requested further assurances from Cabot Lodge regarding the IPO’s excessive underwriting compensation if the IPO failed to meet sales projections:

Clarify Cabot Lodge’s plan of how it will address the excessive underwriting compensation if the offering is abruptly terminated once again, or if future sales

of the offering do not reach the \$80,000,000 amount projected in Exhibit 3 of counsel's July 10, 2013 response letter.

In its August 30, 2013 response, like its July 10, 2013 representations, Cabot Lodge again undertook to reimburse the REIT for any overages:

In the event that the offering is abruptly terminated, or if future sales of the offering do not reach the \$80,000,000 amount . . . and the underwriting compensation is in excess of 10% of offering proceeds . . ., then Cabot Lodge will reimburse [the REIT] any amounts over the 10% underwriting cap. Cabot Lodge will pay this amount out of its capital.

Cabot Lodge never reimbursed the REIT for any underwriting compensation that exceeded ten percent of gross offering proceeds or any O&O expenses that exceeded 15 percent of gross offering proceeds.

Cabot Lodge Made an Unsuitable Sale to Customer HS

An investment in the REIT — a highly illiquid, non-traded REIT with no operating history — carried significant risk.

The REIT's shares were not traded on any stock exchange. Although the REIT offered to repurchase shares from investors, this share repurchase program could be suspended or terminated by the REIT at any time.

Similarly, the REIT had wide discretion to reduce or stop the cash distributions it paid to shareholders.

Indeed, the REIT announced the suspensions of its share repurchase program and its monthly distributions to shareholders in September 2015 and October 2016, respectively.

In January 2013, HS opened a new account with Cabot Lodge. At the time, HS was 72 years old and nearing retirement. He worked as a security guard with an annual income of \$46,000.

HS stated on the Firm's new account forms that he had limited investment experience, his investment objective was "income," his liquidity needs were "medium," and his risk tolerance was "moderate."

Nevertheless, Cabot Lodge recommended that HS purchase the REIT.

Pursuant to the Firm's recommendation, HS purchased \$75,010 in the REIT's common stock through Cabot Lodge on January 16, 2013.

HS did not have funds available to purchase the REIT, so Cabot Lodge recommended that HS sell shares of a municipal bond fund worth approximately \$183,000 and use the proceeds to purchase the REIT and invest \$75,000 in a non-traded debenture with a significant prepayment penalty.

At the time of his purchase of the REIT, HS also held a prior investment in another nontraded REIT worth approximately \$44,000.

After HS's purchase of the REIT, his liquid net worth was \$207,000 and his total non-traded REIT holdings were approximately \$119,000.

As a result of purchasing the REIT, non-traded REITs were 57 percent of HS's liquid net worth.

This concentration in non-traded REITs was unreasonably high for HS given his conservative investment profile.

In light of HS's age, near-retirement status, existing illiquid holdings, modest financial means, conservative investment objectives, limited investment experience, and low risk tolerance, Cabot Lodge did not have a reasonable basis to believe that its recommended investment in the REIT was suitable for HS.

The Firm's WSPs did not have concentration limits in place for REITs at the time of HS's purchase.

**FIRST CAUSE OF ACTION
(Excessive O&O Expenses (FINRA Rules 2310(b)(4) and 2010))**

FINRA Rule 2310(b)(4)(A) provides:

No member or person associated with a member shall underwrite or participate in a public offering of a . . . REIT if the organization and offering expenses are not fair and reasonable, taking into consideration all relevant factors.

Under FINRA Rule 2310(b)(4)(B), the O&O expenses for an offering are presumed to be unfair and unreasonable if: (1) they exceed 15 percent of the gross proceeds of the offering; or (2) the "total amount of all items of compensation from whatever source . . . payable to underwriters, broker-dealers, or affiliates thereof" exceeds 10 percent of the gross proceeds of the offering excluding securities purchased through the reinvestment of dividends.

The gross proceeds for the IPO were \$49,728,392, composed of the amount raised through the primary offering to the public and the DRIP.

The O&O expenses and the underwriting compensation for the IPO were \$14,019,027 and \$7,652,046, respectively.

The O&O expenses and the underwriting compensation well exceed the 15 percent and 10 percent caps in the rule and were unfair and unreasonable.

Cabot Lodge has not corrected these overages, whether by reimbursement of excessive O&O expenses or otherwise.

Cabot Lodge participated in the public offering of a REIT in which the O&O expenses were not fair and reasonable, in violation of FINRA Rule 2310(b)(4)(A) and FINRA Rule 2010.

**SECOND CAUSE OF ACTION
(Failure to Disclose Underwriting Compensation
(FINRA Rules 5110(c), 2310(b)(3), and 2010))**

FINRA Rule 5110 is known as the Corporate Financing Rule. FINRA Rule 5110(c)(2)(C) requires that “[a]ll items of underwriting compensation shall be disclosed in the section on underwriting or distribution arrangements in the prospectus”

FINRA Rule 5110(c)(3) defines “underwriting compensation” broadly and includes common stock received at the time of a public offering, as well as “all other items of value received or to be received by the underwriter and related persons in connection with or related to the distribution of the public offering”

Under FINRA Rule 5110(d)(1), underwriting compensation also includes “[a]ll items of value received and all arrangements entered into for the future receipt of an item of value” during the period commencing 180 days immediately preceding the date the registration statement for the offering is required to be filed with FINRA (which is one business day after the registration statement is filed with the SEC) through the first sale date for the offering.

An underwriter for purposes of the Corporate Financing Rule includes any FINRA member that is participating in the distribution of a public offering and any associated person of the member.

At all relevant times, Cabot Lodge and its associated persons were underwriters for purposes of the Corporate Financing Rule.

The Registration Statement for the IPO was filed with the SEC on December 21, 2011.

Under FINRA Rule 5110, all shares of the REIT’s common stock received and all arrangements for the future receipt of the REIT’s common stock entered into by persons

associated with Cabot Lodge during the period starting 180 days before December 22, 2011 and lasting through August 15, 2012 were underwriting compensation for purposes of the IPO.

From January 5, 2012 through July 27, 2012, contracts were executed with five registered representatives that awarded them, combined, 255,000 restricted shares of the REIT's common stock.

The five representatives were hired to and did fill key positions at Cabot Lodge once its membership was approved. Cabot Lodge was formed for the specific purpose of distributing the REIT's common stock pursuant to the IPO.

The 255,000 restricted shares awarded pre-IPO to Cabot Lodge associated persons were required to be, but were not, adequately disclosed in any prospectuses as underwriting compensation.

In addition, contracts were executed with nine individuals in April 2013 that awarded them, combined, 255,000 Retention Shares and 187,500 Incentive Shares of the REIT's common stock.

These nine individuals all became associated with Cabot Lodge and were retained to wholesale the REIT's common stock.

The 255,000 restricted shares awarded in April 2013 to Cabot Lodge associated persons were required to be, but were not, disclosed as underwriting compensation until September 20, 2013.

Underwriters such as Cabot Lodge are not permitted to participate in a public offering if the offering's disclosures do not comply with the Corporate Financing Rule.

Cabot Lodge, in violation of FINRA Rule 5110(c), participated in the distribution of the IPO even though none of the 460,000 Retention Shares or the 237,500 Incentive Shares awarded

to persons associated with Cabot Lodge were disclosed in the nine prospectuses, and the supplements thereto, that were filed in connection with the IPO between August 15, 2012 and September 20, 2013, and the pre-IPO awards to five representatives were never adequately disclosed.

FINRA Rule 2310(b)(3)(A) requires that “[p]rior to participating in a public offering of a . . . REIT, a member or person associated with a member shall have reasonable grounds to believe, based on information made available to him by the sponsor through a prospectus or other materials, that all material facts are adequately and accurately disclosed.” FINRA Rule 2310(b)(3)(B) requires that, in determining the adequacy of the REIT’s disclosures, “a member or person associated with a member shall obtain information on material facts relating at a minimum to . . . items of compensation.” Under FINRA Rule 2310(b)(4)(E), “items of compensation” include those “paid by the . . . REIT directly or indirectly from whatever source to underwriters, broker-dealers, or affiliates thereof, including, but not limited to . . . securities or rights to acquire securities.”

Cabot Lodge personnel were aware of the restricted stock awards. They also were or should have been aware that April 2013 awards were not disclosed until the September 20, 2013 Prospectus, and the pre-IPO awards were never adequately disclosed.

By participating in the IPO while the prospectuses failed to disclose the restricted stock awards, Cabot Lodge violated FINRA Rule 5110(c), and by participating in the IPO without having reasonable grounds to believe that the restricted stock awards were adequately and accurately disclosed in the prospectuses, Cabot Lodge violated FINRA Rule 2310(b)(3), and as a consequence of these violations, Cabot Lodge violated FINRA Rule 2010.

**THIRD CAUSE OF ACTION
(Failure to Supervise (FINRA Rules 3110(a),
3110(b) and 2010, NASD Rules 3010(a) and 3010(b))**

FINRA Rule 3110(a) and, for conduct occurring on or before November 30, 2014, NASD Rule 3010(a), require each member to “establish and maintain a system to supervise the activities of each associated person that is reasonably designed to achieve compliance with . . . applicable FINRA [and NASD] rules,” and provide that “[f]inal responsibility for proper supervision shall rest with the member.”

FINRA Rule 3110(b) and, for conduct occurring on or before November 30, 2014, NASD Rule 3010(b), require each member to “establish, maintain, and enforce written procedures to supervise the types of business in which it engages and the activities of its associated persons that are reasonably designed to achieve compliance with . . . applicable FINRA [and NASD] rules.”

Cabot Lodge failed to establish, maintain, and enforce a supervisory system, including written procedures, that was reasonably designed to ensure compliance with FINRA’s rules prohibiting the Firm’s participation in a REIT offering in which excessive O&O expenses were incurred.

At all relevant times, the Firm’s WSPs required the Firm’s IBM to review the O&O expenses related to a proposed REIT offering to ensure that they comply with FINRA’s rules limits concerning O&O expenses and underwriting compensation. However, the WSPs did not provide any processes or procedures for monitoring the O&O expenses, underwriting compensation, or gross proceeds while the offering remained open. Nor did they set forth any steps for the IBM to take should O&O expenses and underwriting compensation exceed FINRA’s regulatory limits at the close of an offering.

Although Cabot Lodge represented in the Overage Plan that it had developed detailed internal controls to monitor for excessive O&O expenses and underwriting compensation, those controls were never implemented or incorporated into the Firm's WSPs. Cabot Lodge personnel failed to take steps to determine whether the O&O expenses for the IPO were excessive.

The Firm's WSPs in effect from August 15, 2012 to September 20, 2013 and thereafter required the IBM to review the REIT's prospectuses to ensure that all "items of compensation" were disclosed therein. The IBM failed to review the August 2012 Prospectus or any other prospectus between the commencement of the IPO and the filing of the September 20, 2013 Prospectus to ensure that any restricted share compensation, including his own, had been disclosed. Nor, during that time, did he, or anyone else at the Firm, take steps to determine whether other persons associated with Cabot Lodge received stock awards and, if so, whether they were disclosed in the IPO prospectuses.

For the foregoing reasons, Cabot Lodge violated FINRA Rule 3110(a) and (b) and, for its conduct that occurred on or before November 30, 2014, NASD Rule 3010(a) and (b). All of these violations also constituted violations of FINRA Rule 2010.

FOURTH CAUSE OF ACTION (Unsuitable Recommendations (FINRA Rules 2111 and 2010))

FINRA Rule 2111 requires that a broker have a reasonable basis for believing that a recommended transaction or investment strategy is suitable for the customer based upon the customer's investment profile, which includes, among other factors, the customer's age, financial situation and needs, investment experience, and risk tolerance.

A recommendation may be unsuitable if it results in an undue concentration in a particular security or category of securities and the correspondent increased risk of loss is inconsistent with the customer's risk tolerance and investment objectives. A high concentration

of investments in speculative securities is not suitable for investors with limited income, means, and investment experience.

Non-traded REITs have particular risks, such as liquidity risk and cessation of distributions, that make them suitable for recommendation to only a very narrow band of investors capable of evaluating and being financially able to bear those risks.

HS was a 72-year old nearing retirement with limited investment experience and living on a modest salary as a security guard. He was willing to accept only a moderate risk on his initial investment and prioritized income as his account investment objective.

Cabot Lodge recommended that HS sell his municipal bond fund holdings and invest \$75,100 of the proceeds in the REIT, a highly illiquid non-traded REIT with no operating history and significant distribution risk.

HS's investment in the REIT raised HS's concentration in REITs to 57 percent of his liquid net worth, which was unreasonably high for him.

In light of HS's investment experience, existing holdings, risk tolerance and investment objectives, the REIT was not a suitable recommendation for him.

As a result of the foregoing, Cabot Lodge violated FINRA Rules 2111 and 2010.

Based on the foregoing, Respondent violated FINRA Rules 2310(b)(4), 2310(b)(3), 5110(c), 3110(a), 3110(b), 2111 and 2010, and violated NASD Rule 3010(a) and 3010(b).

Based on these considerations, the sanctions hereby imposed by the acceptance of the Offer are in the public interest, are sufficiently remedial to deter Respondent from any future misconduct, and represent a proper discharge by FINRA, of its regulatory responsibility under the Securities Exchange Act of 1934.

SANCTIONS

It is ordered that Respondent be sanctioned as follows:

1. A censure;
2. A \$270,000 fine;
3. \$75,010 in restitution to customer HS; and
4. An undertaking to review and revise the firm's supervisory systems and procedures to address the deficiencies described in the Third Cause of Action as they relate to the organizational and offering expenses for the public offering of a REIT to ensure that they are reasonably designed to achieve compliance with FINRA Rules and to implement all changes necessary to remediate the violations identified herein.
 - a. Within 30 days of the date this Offer is accepted, a certification from a senior officer and principal of the firm with supervisory authority over the firm's supervisory system regarding organizational and offering expenses for the public offering of a REIT that the firm has enhanced its supervisory systems and written supervisory procedures in ways that are reasonably expected to address the areas of conduct addressed herein. This certification shall be submitted by letter addressed to Gregory R. Firehock, Senior Litigation Counsel, FINRA, at the address set forth below, and to gregory.firehock@finra.org.
 - b. The Department of Enforcement may, upon a showing of good cause and in its sole discretion, extend the time for compliance with these provisions.

Respondent agrees to pay the monetary sanctions upon notice that this Offer has been

accepted and that such payments are due and payable. Respondent has submitted an Election of Payment form showing the method by which it proposes to pay the fine imposed.

Restitution is ordered to be paid to customer HS in the total amount of \$75,010.

A registered principal on behalf of Respondent Firm shall submit satisfactory proof of payment of restitution, specifying the date and amount paid to customer HS or of reasonable and documented efforts undertaken to effect restitution. Such proof shall be submitted to Gregory R. Firehock, Senior Litigation Counsel, FINRA Department of Enforcement (1601 Market Street, 27th Floor, Philadelphia, Pennsylvania, 19103-2339) by letter that identifies the Respondent Firm and the case number and includes a copy of the check, money order or other method of payment or by e-mail, with pdf copies of the payment documentation, from a work-related account of the registered principal of Respondent Firm to EnforcementNotice@FINRA.org. This proof shall be provided to the FINRA staff member listed above no later than 30 days after acceptance of the Offer.

If for any reason Respondent cannot locate customer HS after reasonable and documented efforts within 30 days from the date the Offer is accepted, or such additional period agreed to by a FINRA staff member in writing, Respondent shall forward any undistributed restitution and interest to the appropriate escheat, unclaimed property or abandoned property fund for the state in which the customer is last known to have resided. Respondent shall provide satisfactory proof of such action to the FINRA staff member identified above and in the manner described above, within 14 calendar days of forwarding the undistributed restitution and interest to the appropriate state authority.

The imposition of a restitution order or any other monetary sanction herein, and the timing of such ordered payments, does not preclude customers from pursuing their own actions to obtain restitution or other remedies.

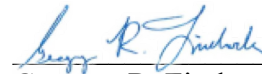
Restitution payments to customers shall be preceded or accompanied by a letter, not unacceptable to FINRA staff, describing the reason for the payment and the fact that the payment is being made pursuant to a settlement with FINRA and as a term of this Offer.

The sanctions imposed herein shall be effective on a date set by FINRA staff.

SO ORDERED.

FINRA

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



Gregory R. Firehock
Senior Litigation Counsel
FINRA Department of Enforcement
1601 Market Street, 27th Floor
Philadelphia, Pennsylvania 19103-2339