

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2015043591701**

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

RE: Ross, Sinclair & Associates, LLC Respondent
CRD No. 25440

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent submits this Letter of Acceptance, Waiver and Consent ("AWC") for the purpose of proposing a settlement of the alleged rule violations described below. This AWC is submitted on the condition that, if accepted, FINRA will not bring any future actions against Respondent alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

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

BACKGROUND

Ross Sinclair & Associates, LLC (the "Firm" or "RSA") has been a FINRA member since November 1989 and has its main offices in Cincinnati, Ohio. It is also a registrant of the Municipal Securities Rulemaking Board ("MSRB") and performs municipal underwritings, primarily in the Midwest. As of October 2016, the Firm employed 62 registered individuals and operated out of 15 branches.

RELEVANT DISCIPLINARY HISTORY

In FINRA matter number 20120328339, the Firm was censured and paid a \$22,000 fine in connection with agency securities that were transacted at an aggregate price that was not fair and not reasonable in violation of FINRA Rule 2010, and for supervisory violations relating thereto, in violation of NASD Rule 3010 and FINRA Rule 2010.

OVERVIEW

From June 2009 through June 2015, RSA committed violations of various rules of the MSRB and FINRA, including MSRB Rule G-27 and NASD Rule 3010 which, among other things, require firms to: (i) establish and maintain a supervisory system reasonably designed to achieve compliance with securities laws and regulations, and with MSRB, NASD and FINRA rules; and, (ii) establish, maintain and enforce written supervisory procedures ("WSPs") to supervise its registered and associated persons.

The misconduct described below includes a failure by the Firm to ensure that material facts, including its own potential conflicts of interest, about offerings for which the Firm served as financial advisor or underwriter, or which the Firm recommended to its customers, were disclosed in the respective offering memoranda. This was in contravention to Section 17(a)(2) of the Securities Act of 1933, and thereby in violation of MSRB Rule G-17. Additional violations relate to the Firm's improper conduct (and inadequate supervision of that conduct) in acting as both a financial advisor and an underwriter in the same municipal securities issuance, and failure to timely provide disclosures relating to its underwriting role, in violation of MSRB Rules G-23, G-17 and G-27. These violations, as well as others, are summarized below.

FACTS AND VIOLATIVE CONDUCT

1. Material Omissions in Connection with Municipal Offerings

a. Background

Dating back to at least 1993, RSA provided financial advisory and underwriting services to a particular county (the "County") on a series of securities offerings related to a horse racetrack in the County (the "Racetrack"). The Racetrack is owned and operated by "ARI." ARI holds certain licenses and permits that allow it to operate the Racetrack to conduct horseracing and associated activities. Murray Sinclair ("Sinclair") has owned 100% of ARI since April 2015 and serves as a managing member of ARI. Prior to that time, Mr. Sinclair owned approximately 40% of ARI. Sinclair also indirectly owns 90% of RSA and was its President, CEO and managing member prior to June 2016.

Since 1993, a public properties corporation named after the County ("County PPC")¹ has leased one of three tracts of property upon which the Racetrack sits to the County (the "Lease"), which in turn has subleased the property to ARI and its

¹ County PPC is a non-profit, non-stock public and governmental corporation whose principal purpose is to act as an agency and instrumentality of the County in the planning, promotion, development, financing, and acquisition of public improvements and public projects, including the property at issue here.

predecessors (the "Sublease").²

ARI has experienced gradually declining operations since 2000 and for the last ten years, its expenses have exceeded its revenues. Since at least 2011, ARI's auditor has issued a "going concern" notation in its financial statements. Due to increasing operational expenses and declining revenues and an inability to meet current obligations, ARI has borrowed money via unsecured loans from Sinclair and his deceased business partner.

Since 2012, ARI has been in negotiations for the sale of some or all of its assets to another racing company (the "Potential Purchaser"). These negotiations resulted in the execution of at least two letters of intent, one dated January 29, 2013 and the other dated November 25, 2014.

b. The Subject County PPC Offerings

In 1993, County PPC (hereinafter also called the "Issuer") issued bond anticipation notes in the amount of \$2,700,000 for the stated purpose of acquiring, constructing, and equipping fairgrounds, a convention center, and related parking facilities. Since 1993, the notes have been refinanced and renewed multiple times, with new offerings conducted in 1999, 2004, 2007, 2011, 2015, and 2016. Under the terms of each of the new offerings, the proceeds from the sale of the new notes were used to retire and pay in full the outstanding principal and interest of the previously issued notes.

On April 19, 2011, the Issuer conducted a private placement offering in which it offered investors "lease revenue note anticipation renewal notes" in the amount of \$2,200,000 (the "2011 Offering" or "2011 Notes"). RSA acted as the financial advisor and underwriter for the 2011 Offering. The 2011 Notes matured on May 1, 2015.

On April 25, 2015, the Issuer conducted another private placement, offering investors "lease revenue bond anticipation taxable renewal notes" in the amount of \$2,120,000 (the "2015 Offering" or the "2015 Notes"). RSA acted as the sole underwriter for this Offering. The 2015 Notes paid off the 2011 Notes. The 2015 Notes were one-year notes that matured on May 1, 2016. The one-year term was specifically contemplated in anticipation of the sale of some or all of ARI's assets to the Potential Purchaser within the year.

The Issuer drafted a Private Placement Memorandum ("PPM") for each of these offerings. The PPM for the 2015 Offering stated that the 2015 Notes are "secured by a foreclosable first mortgage lien on the Project Site and by the assignment by

² The Racetrack is located on a 50.2 acre parcel that is subdivided into three tracts: (1) Tract I consists of approximately 35.6 acres and is owned by ARI; (2) Tract II consists of approximately 14.487 acres and is owned by County PPC; and (3) Tract III consists of approximately 4,922 square feet and is owned by ARI. The physical racetrack and stables are located on Tracts I and III, and the grandstand and parking lot are located on Tract II.

[County PPC] of all its right, title and interest to the Lease ... by and among [County PPC] and the County.”

The “Project Facilities” and “Project Site” were generically defined as the “acquisition, construction, and equipping of fairgrounds, convention center, and related parking facilities.” The PPM refers to an Exhibit A for a more detailed description of the property being funded by Notes. But Exhibit A merely provides a legal “metes and bounds”³ description. There is no description of the three tracts, no reference to a Racetrack, and no information to allow the reader to understand what the Project Site or Project Facilities is, where it is, who owns it, and what its use would be.

The 2015 Offering PPM also contained several provisions limiting the liability of the County and the County PPC for the debt on the 2015 Notes to the Lease payments from the County, including: (1) that the note is a “revenue note and constitutes a limited indebtedness of [County PPC] [and is] ...payable as to both principal and interest solely from the income and revenue derived from the leasing of the Project Facilities,” and (2) the “only source of funds expected by the [County PPC] to meet the debt service on the [Notes is] the rental payments to be received from the County for its use of the Project Facilities.” The 2015 Offering PPM also disclosed, in all caps:

THE SERIES 2015 NOTES DO NOT CONSTITUTE A DEBT, LIABILITY OR OTHER OBLIGATION OF THE CORPORATION OR OF THE COUNTY. THE CORPORATION SHALL NOT BE OBLIGATED TO PAY THE RENEWAL NOTES OR THE INTEREST THEREON EXCEPT FROM THE REVENUES, FUNDS AND ASSETS OF THE CORPORATION SPECIFICALLY PLEDGED THEREFOR, AND NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE COUNTY ARE PLEDGED TO THE PAYMENT OF THE SERIES 2015 NOTES.

The 2011 Offering PPM contained similar language to all of the above.

The transaction between the Potential Purchaser and ARI did not come to fruition within a year of the 2015 Offering. Therefore, on April 25, 2016, the Issuer conducted another private placement offering, using the proceeds to pay off the 2015 Notes. The maturity date for those notes is May 1, 2017.

In connection with the 2011 Offering, the Firm received an underwriter’s discount of \$11,000 and charged an advisory fee of \$5,000, totaling \$16,000 in compensation. In connection with the 2015 Offering, the Firm received \$19,455

³ A “metes-and-bounds” description is a technical description that uses lengths and angles of boundaries to describe parcels of property.

in underwriter's discount.⁴ Therefore, for the two offerings, the Firm received a financial benefit of \$35,455.

c. The Material Omissions in the Offering Documents

The PPMs for the 2011 and 2015 Offerings failed to disclose material facts to investors, as follows:

- Neither the 2011 nor the 2015 Offering PPM disclosed the fact that RSA's majority owner and then President, CEO and managing member – Sinclair – was also a managing member of ARI, as well as an approximately 40% owner in 2011, and sole owner beginning in April 2015. As sublessee of the Project Site upon which the Racetrack sits, ARI was a beneficiary of the offering proceeds. This conflict of interest was a material fact that should have been disclosed to investors in the 2011 and 2015 PPMs.
- The 2015 Offering PPM failed to disclose that: (a) the County subleased the Project Facilities to ARI, and (b) the County's Lease payments to the Issuer—which the PPM described as the sole source of revenue to repay the debt—were derived solely from Sublease payments made by ARI to the County. In fact, neither ARI nor Sinclair were identified in the PPM as having a financial interest in the Offering.
- The 2015 Offering PPM failed to: (a) provide an adequate description of the actual Project Facilities or Project Site, relying primarily on a technical metes-and-bounds description; (b) describe how the Project Facilities or Project Site have been, and would be, utilized; (c) provide any description of how revenues were generated from the Project Facilities; or (d) disclose any information about the Racetrack, which is not even mentioned in the PPM.
- The 2015 Offering PPM did not disclose any information on the financial condition of ARI, or the proposed sale of ARI's assets to the Potential Purchaser, even though: (a) the one-year term of the 2015 Offering was, among other reasons, contemplated for the possible close of the transaction within the year; (b) ARI's Sublease payments were the *sole* source of revenue to repay the 2015 Notes; and (c) both the County and County PPC disclaimed any obligation to repay the Notes beyond the Lease revenue.

⁴ An "underwriter's discount" is the difference between the price at which an underwriter purchases a bond issue from an issuer, and the price at which the underwriter sells the bond issue to an investor.

As a result of the above, RSA violated MSRB Rule G-17⁵ by acting in contravention of Section 17(a)(2) of the Securities Act of 1933.

In addition to the substantive Rule G-17 violation, the Firm failed to establish and enforce WSPs that were adequately designed to ensure that all material facts were disclosed in writing to potential investors for any offerings of municipal securities in which the Firm acted as underwriter or as financial advisor, or that the Firm recommended to customers. In this regard, the Firm's WSPs failed to address the requirement that registered representatives inform the Firm of any potential conflicts of interest involving an offering, including the 2011 and 2015 Offerings described above. As a result, the Firm violated MSRB Rule G-27.

2. RSA Improperly Acted as Financial Advisor and Underwriter in the Same Municipal Issuances, and Failed to Provide Timely Underwriter Disclosures

MSRB Rule G-23 is designed to minimize the prima facie conflict of interest that exists when a municipal securities professional acts as both a financial advisor and an underwriter with respect to the same issue.⁶ The primary role of an underwriter is to purchase or arrange for the placement of securities in an arms-length commercial transaction between the issuer and the underwriter.⁷ In a financial advisory relationship, however, both the issuer and the financial advisor have a mutually beneficial interest in the issuance of securities.

MSRB Rule G-23(b) provides that, among other things, a financial advisory relationship is deemed to exist for purposes of Rule G-23 when a dealer enters into an agreement with an issuer to provide financial advisory services to an issuer with respect to the issuance of municipal securities, including advice with respect to the structure, timing, and terms of the issue. After November 27, 2011, Rule G-23 was amended to preclude a dealer with a financial advisory relationship with respect to the issuance of municipal securities from acquiring all or any portion of such issue, directly or indirectly.

The MSRB issued an Interpretive Notice regarding underwriter disclosure requirements under Rule G-17⁸ stating, among other things, that the underwriter must disclose to the issuer that: (1) the underwriter's primary role is to purchase securities with a view to distribution in an arm's-length commercial transaction with the issuer and has financial and other interests that differ from those of the

⁵ MSRB Rule G-17 provides that "[i]n the conduct of its municipal securities or municipal advisory activities, each broker, dealer, municipal securities dealer, and municipal advisor shall deal fairly with all persons and shall not engage in any deceptive, dishonest, or unfair practice."

⁶ MSRB Rule G-23 Interpretive Guidance, "Issuer consent: financial advisor participation in underwriting – April 10, 1984."

⁷ MSRB Rule G-23 Interpretive Guidance, "Guidance on the Prohibition on Underwriting Issues of Municipal Securities for which a Financial Advisory Relationship Exists Under Rule G-23 - November 27, 2011."

⁸ MSRB Rule G-17 Interpretive Notice, "Interpretive Notice Concerning the Application of MSRB Rule G-17 to Underwriters of Municipal Securities – August 2, 2012."

issuer; and (2) unlike a municipal advisor, the underwriter does not have a fiduciary duty to the issuer under the federal securities laws and is, therefore, not required by federal law to act in the best interests of the issuer without regard to its own financial or other interests. The Notice also provided that “[t]he disclosure concerning the arm’s-length nature of the underwriter-issuer relationship must be made in the earliest stages of the underwriter’s relationship with the issuer with respect to an issue.”

From approximately July 2013 to June 2015, the Firm assisted and advised ten issuers in the development of their associated issues before signing an underwriting engagement letter. There were no written financial advisory agreements signed. Nonetheless, pursuant to MSRB Rule G-23(b), RSA was deemed to have been acting as a financial advisor based on its activities, including bond structuring, ratings presentation preparation and assistance, and document filing. After weeks or sometimes months of acting as a financial advisor, RSA then switched roles and acted as an underwriter for that particular issue, as reflected in an underwriting agreement executed by RSA and the issuer. Therefore, the Firm violated MSRB Rule G-23(d), which prohibits a financial advisor in an advised issue from acting as underwriter for that issue.

With respect to these ten issues, as well as one additional issuance with a school district, once RSA began its underwriting role, it failed to provide the required G-17 disclosures “at the earliest stage in the relationship.” Rather, the Firm typically provided the disclosure as a part of the written underwriting agreement which was signed on the eve of, or day of, the issuance closing. Therefore, the Firm violated MSRB Rule G-17.

RSA’s actions were also in violation of its own WSPs which required distribution of an Underwriting Initial Disclosure Letter containing the disclosures required under Rule G-17, as soon as one of four triggering events occurred:

1. RSA solicits an issuer for underwriting business with respect to a particular issue;
2. RSA submits a bid to provide underwriting services in connection with an issue;
3. RSA agrees to act as an underwriter with respect to an issue; or
4. RSA acts as an underwriter with respect to an issue.

With respect to the 11 offerings identified above, the Firm never provided an Underwriting Initial Disclosure Letter to the issuers, although at least one of the four triggering events had occurred. Further, the Firm’s WSPs included a ban on acting as a financial advisor and as an underwriter in the same issue, which ban the Firm violated in the ten issues above. As a result, the Firm violated MSRB Rule G-27 by failing to maintain and enforce its own WSPs.

3. Failure to Maintain Documentation Evidencing that Adequate Due Diligence Was Conducted In Connection With 20 Offerings

From February 2014 to May 2015, the Firm sold 20 competitive municipal offerings, but failed to maintain documentation to evidence that it conducted adequate due diligence. For each of the offerings, the Firm was not able to evidence (a) that it conducted an analysis of the offering documents to determine their accuracy or whether there were any apparent omissions of material facts and, (b) that the due diligence was supervised by a registered Firm principal. In addition, the Firm's WSPs failed to address how the Firm would document that an adequate due diligence process and supervisory review had occurred. Based on the above, the Firm violated MSRB Rule G-17 and G-27.

4. Failure to Verify Identity of Certain Customers In Private Placements

Federal Regulations (31 CFR 1023.220) require a broker-dealer to establish, document and maintain a written Customer Identification Program, which must be part of the firm's Anti-Money Laundering compliance program. Failure to do so results in a violation of FINRA Rule 3310(b), which requires firms to establish and implement policies, procedures and internal controls reasonably designed to achieve compliance with the Bank Secrecy Act and its implementing regulations. In connection with six private offerings from February 6, 2014 to May 28, 2015, the Firm did not verify the identity of the 476 investors in the offerings who did not have brokerage accounts with the Firm. Rather, these 476 customers invested directly with issuer. Because it failed to verify the identity of these 476 investors, the Firm violated FINRA Rule 3310(b), as well as FINRA Rule 2010.

5. Supervisory Deficiencies In the Centerville Branch

In November 2011, the Firm established a New Office of Supervisory Jurisdiction in Centerville, Ohio ("Centerville "OSJ") that included personnel of an unaffiliated business group which owned and operated apartment units and structured private placements relating to the apartment units (the "Centerville Group"). After that time and until February 2014, the Firm failed to establish an adequate supervisory system to supervise the Centerville OSJ in a variety of ways.

First, from December 2011 through March 2013, members of the Centerville Group who were also registered representatives of RSA conducted three offerings pursuant to Regulation D (17 C.F.R. §230.51 *et seq.*) as issuers ("Reg D Offerings").⁹ The Reg D Offerings were sold to customers of the Firm. The Firm failed to conduct and evidence adequate due diligence of these three offerings. There was no documentation to evidence: (a) that the Firm conducted an analysis of the offering documents to determine their accuracy or whether there were any apparent omissions of material facts; and, (b) that the due diligence was

⁹ The Reg D Offerings were dated December 5, 2011, January 15, 2012, and March 1, 2013.

supervised by a registered Firm principal. In addition, the WSPs did not address how the Firm would perform and document its due diligence for private offerings. For all of these reasons, the Firm violated NASD Rule 3010.

In addition to the supervisory failures, the members of the Centerville Group who were also registered representatives of RSA created and distributed offering materials for the Reg D Offerings that violated FINRA Rule 2210 (for the offering after February 4, 2013) and NASD Rule 2210 (for the two offerings before February 4, 2013).¹⁰ Both FINRA Rule 2210 and NASD Rule 2210 require that all communications be fair and balanced, and provide a sound basis for evaluating the facts with respect to a security. The offering documents for the Reg D Offerings did not adequately disclose the potential conflict of interest associated with the fact that some of the officers of the Centerville Group were also registered representatives of RSA. Therefore, the offering documents were not fair and balanced and did not provide a sound basis for evaluating the facts with respect to the Reg D Offerings.

In connection with 74 customers and 84 purchases of the Reg D Offerings, the Firm failed to obtain basic customer information, and relied solely on accredited investor attestations. Therefore, the Firm violated SEC Rule 17a-3(a)(17) which provides that for each account with a natural person as a customer or owner, there must be maintained an account record including certain specified information about the account holder. The Firm also failed to document the signatures of the representatives responsible for the Centerville Group accounts, and the signature of the principal who approved the accounts. As a result the Firm violated SEC Rule 17a-3(a)(17) and FINRA Rule 4512(a)(2).

In relying solely on the accredited investor attestations, the Firm also failed to obtain customer background information fundamental to the Firm's obligation to ensure that its recommendations of the Reg D Offerings to its customers were suitable for them, in violation of FINRA Rule 2111.

Finally, the Firm failed to evidence Firm principal approval for all 84 transactions of the Reg D Offerings, in violation of NASD Rule 3010.

The above violations also constitute violations of FINRA Rule 2010.

6. Late MSRB Filings

MSRB Rule G-32 requires, among other things, underwriters of primary offerings of municipal securities to timely submit certain information and documentation to the MSRB's Electronic Municipal Market Access System ("EMMA"). Between June 1, 2009 and August 29, 2011, RSA, while acting as an underwriter for primary offerings of municipal securities, violated MSRB Rule G-32 in the following ways:

¹⁰ FINRA Rule 2210 replaced NASD Rule 2210 effective February 4, 2013.

- MSRB Rule G-32(b)(i) requires the underwriter of a primary offering of municipal securities to send the Official Statement ("OS") to EMMA within one business day after receipt of the OS from the issuer, but by no later than the closing date. Out of 293 primary offerings of municipal securities, RSA failed to timely file three OSs. The filings were between one and three days late and were an average of two days late.
- MSRB Rule G-32(b)(i)(D) requires the underwriter of a primary offering of municipal securities to send the Preliminary Official Statement ("POS") to EMMA no later than the closing date. For two of five primary offerings of municipal securities, RSA failed to timely file the POSs. The filings were two and six days late and were an average of four days late.
- Securities Exchange Act Rule 15c2-12 allows firms to offer certain municipal securities without preparing OSs. For such an offering, MSRB Rule G-32(b)(i)(C) requires the underwriter to submit to EMMA, no later than the closing date: (1) notice that no OS will be prepared; and (2) the POS or notice that no POS has been prepared. RSA engaged in 56 securities offerings exempt from SEC Rule 15c2-12 and elected not to prepare OSs for them. In five of them, RSA failed to timely inform MSRB that no OS or POS was to be prepared. The notices ultimately provided were between one and 25 days late and were an average of 11.8 days late from the closing date.
- When an advance refunding document ("ARD") is prepared in connection with an advance refunding of outstanding municipal securities, MSRB Rule G-32(b)(ii)(A) requires the underwriter to submit the ARD to EMMA within five business days of the closing date. RSA failed to timely file the ARD with EMMA in 13 of 34 advance refunding offerings by the Firm. The ARDs submitted were between 7 and 43 days late and were an average of 15.2 days late.

Based on the foregoing, RSA violated MSRB Rule G-32.

B. I also consent to the imposition of the following sanctions:

- Censure;
- \$214,545 fine (\$139,545 of which pertains to the violations of MSRB Rules G-17, G-23, G-27, and G-32);
- \$35,455 in disgorgement of financial benefits received in connection with the County Offerings;
- An undertaking to hire an independent consultant, as described below.

Respondent agrees to pay the monetary sanction(s) upon notice that this AWC has been accepted and that such payment(s) are due and payable. Respondent has

submitted an Election of Payment form showing the method by which it proposes to pay the fine imposed.

Respondent specifically and voluntarily waives any right to claim that it is unable to pay, now or at any time hereafter, the monetary sanction(s) imposed in this matter.

Disgorgement of financial benefits received, which is ordered to be paid to FINRA in the amount of \$35,455, plus interest at the rate set forth in Section 6621(a)(2) of the Internal Revenue Code, 26 U.S.C. 6621, (1) from April 19, 2011 until the date this AWC is accepted by the NAC as to \$16,000 of the disgorgement amount, and (2) from April 28, 2015 until the date this AWC is accepted by the NAC as to \$19,455 of the disgorgement amount.

With respect to the Independent Consultant Undertaking, RSA shall:

- a. Retain, within 60 days of the date of the Notice of Acceptance of this AWC, an Independent Consultant, not unacceptable to FINRA staff, to conduct a comprehensive review of the adequacy of the Firm's policies, systems and procedures for: (i) determining and disclosing all material facts in any underwritings to be executed by RSA; and (ii) determining and disclosing all material facts related to any offering to be sold by RSA.
- b. The Independent Consultant, any firm with which the Independent Consultant is affiliated or of which he/she is a member, and any person engaged to assist the Independent Consultant in performance of his/her duties, shall not have provided consulting, legal, auditing or other professional services to, or had any affiliation with, Respondent during the two years prior to the date of the Notice of Acceptance of this AWC.
- c. Exclusively bear all costs, including compensation and expenses, associated with the retention of the Independent Consultant.
- d. Cooperate with the Independent Consultant in all respects, including by providing staff support. RSA shall place no restrictions on the Independent Consultant's communications with FINRA staff and, upon request, shall make available to FINRA staff any and all communications between the Independent Consultant and the Firm and documents reviewed by the Independent Consultant in connection with his or her engagement. Once retained, RSA shall not terminate the relationship with the Independent Consultant without FINRA staff's written approval; RSA shall not be in and shall not have an attorney-client relationship with the Independent Consultant and shall not seek to invoke the attorney-client privilege or other doctrine or privilege to prevent the Independent Consultant from transmitting any information, reports or documents to FINRA.

- e. At the conclusion of the review, which shall be no more than 120 days after the date of the Notice of Acceptance of this AWC, require the Independent Consultant to submit to the Firm and FINRA staff a Written Report. The Written Report shall address, at a minimum: (i) the adequacy of the Firm's policies, systems, procedures, and training relating to the Undertaking; (ii) a description of the review performed and the conclusions reached; and (iii) the Independent Consultant's recommendations for modifications and additions to the Firm's policies, systems, procedures and training.
- f. Require the Independent Consultant to enter into a written agreement that provides that for the period of engagement and for a period of two years from completion of the engagement, the Independent Consultant shall not enter into any other employment, consultant, attorney-client, auditing or other professional relationship with RSA, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such. Any firm with which the Independent Consultant is affiliated or of which he/she is a member, and any person engaged to assist the Independent Consultant in performing his or her duties pursuant to this AWC, shall not, without prior written consent of FINRA staff, enter into any employment, consultant, attorney-client, auditing or other professional relationship with RSA or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such for the period of the engagement and for a period of two years after the engagement.
- g. Within 60 days after delivery of the Written Report, RSA shall adopt and implement the recommendations of the Independent Consultant or, if it determines that a recommendation is unduly burdensome or impractical, propose an alternative procedure to the Independent Consultant designed to achieve the same objective. The Firm shall submit such proposed alternatives in writing simultaneously to the Independent Consultant and FINRA staff. Within 30 days of receipt of any proposed alternative procedure, the Independent Consultant shall: (i) reasonably evaluate the alternative procedure and determine whether it will achieve the same objective as the Independent Consultant's original recommendation; and (ii) provide the Firm with a written decision reflecting his or her determination. The Firm will abide by the Independent Consultant's ultimate determination with respect to any proposed alternative procedure and must adopt and implement all recommendations deemed appropriate by the Independent Consultant.
- h. Within 30 days after the issuance of the later of the Independent Consultant's Written Report or written determination regarding alternative procedures (if any), RSA shall provide FINRA staff with a written implementation report, certified by an officer of RSA, attesting to,

containing documentation of, and setting forth the details of the Firm's implementation of the Independent Consultant's recommendations.

- i. Upon written request showing good cause, FINRA staff may extend any of the procedural dates set forth above.

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

II.

WAIVER OF PROCEDURAL RIGHTS

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

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

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

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

III.

OTHER MATTERS

I understand that:

- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of

the NAC, or the Office of Disciplinary Affairs ("ODA"), pursuant to FINRA Rule 9216;

- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against me; and
- C. If accepted:
1. this AWC will become part of my permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against me;
 2. this AWC will be made available through FINRA's public disclosure program in accordance with FINRA Rule 8313;
 3. FINRA may make a public announcement concerning this agreement and the subject matter thereof in accordance with FINRA Rule 8313; and
 4. I may not take any action or make or permit to be made any public statement, including in regulatory filings or otherwise, denying, directly or indirectly, any finding in this AWC or create the impression that the AWC is without factual basis. I may not take any position in any proceeding brought by or on behalf of FINRA, or to which FINRA is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects my: (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.
- D. I may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. I understand that I may not deny the charges or make any statement that is inconsistent with the AWC in this Statement. This Statement does not constitute factual or legal findings by FINRA, nor does it reflect the views of FINRA or its staff.

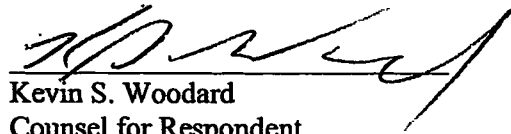
The undersigned, on behalf of the Firm, certifies that a person duly authorized to act on its behalf has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that it has agreed to its provisions voluntarily; and that no offer, threat,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

12/14/2016
Date (mm/dd/yyyy)

FRED OVERBECK - CHIEF OPERATING OFFICER
Respondent, Ross, Sinclair & Associates, LLC

By: Fred Overbeck

Reviewed by:



Kevin S. Woodard
Counsel for Respondent
Dinsmore & Shohl LLP
255 East Fifth Street
Suite 1900
Cincinnati, OH 45202
T (513) 977-8646

Accepted by FINRA:

12/15/16
Date

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



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