

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

Department of Enforcement,

Complainant,

v.

DreamFunded Marketplace, LLC
(CRD No. 283594),

and

Manuel Fernandez
(CRD No. 6639970),

Respondents.

DISCIPLINARY PROCEEDING
No. 2017053428201

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Respondent DreamFunded Marketplace, LLC (“DreamFunded”), a former FINRA funding portal member controlled by Respondent Manuel Fernandez, violated numerous SEC Regulation Crowdfunding Rules and FINRA Funding Portal Rules in connection with more than a dozen crowdfunding offerings promoted through its online portal, dreamfunded.com.

DreamFunded and Fernandez then failed to provide timely and complete responses to requests for documents and information issued during FINRA’s investigation of this matter.

2. As detailed herein, from July 2016 through October 2017, DreamFunded and Fernandez: (i) made false, exaggerated, unwarranted, promissory, or misleading claims to investors about offerings promoted through its online crowdfunding portal and about the portal itself; (ii) did not deny access to its platform when it had reason to believe issuers or their

offerings presented the potential for fraud or otherwise raised investor protection concerns; (iii) included on its website issuer communications that it knew or had reason to know contained untrue statements of material facts or were otherwise false or misleading; (iv) lacked a reasonable basis for believing that the issuers offering securities through its online crowdfunding portal complied with applicable regulatory requirements; (v) failed to provide required notices to investors of investment commitments, early closings of offerings, completion of securities transactions, and material changes to the terms of offerings or to information provided by issuers; (vi) failed to conduct required background and securities enforcement regulatory checks; and (vii) did not reasonably supervise the activities of its online crowdfunding portal.

DreamFunded and Fernandez thereby violated Securities and Exchange Commission (“SEC”) Regulation Crowdfunding Rules 301(a), 301(c)(1), 301(c)(2), 303(d), 303(f), 304(b)(2), 304(c)(1), and 403(a) and FINRA Funding Portal Rules 200(b), 200(c)(2), 200(c)(3), and 300(a). By virtue of these violations, DreamFunded and Fernandez also violated FINRA Funding Portal Rule 200(a).

3. In addition, by failing to provide timely and complete responses to Rule 8210 requests issued in connection with FINRA’s investigation of this matter, DreamFunded and Fernandez violated FINRA Funding Portal Rule 800(a)¹ and FINRA Rule 8210. By virtue of these violations, DreamFunded and Fernandez also violated FINRA Funding Portal Rule 200(a).

RESPONDENTS AND JURISDICTION

4. DreamFunded was headquartered in San Francisco, California. It became a FINRA funding portal member in July 2016. Through its online crowdfunding portal (dreamfunded.com), DreamFunded acted as an intermediary in 15 crowdfunding offerings

¹ FINRA Funding Portal Rule 800(a) makes FINRA funding portal members subject to FINRA Rule 8210.

conducted in reliance on Section 4(a)(6) of the Securities Act of 1933. The firm filed a Form CFPortal-W with the SEC to withdraw its registration on October 4, 2017.² DreamFunded's status as a FINRA funding portal member was terminated on November 3, 2017.

5. Fernandez was DreamFunded's Chief Executive Officer during the entire time it was a FINRA funding portal member. As such, he was an associated person of DreamFunded pursuant to FINRA Funding Portal Rule 100(b)(1). Fernandez describes himself as an entrepreneur, angel investor, start-up mentor, and best-selling author. He resides in San Francisco, California.

6. Although DreamFunded is no longer a FINRA funding portal member, it remains subject to FINRA's jurisdiction for purposes of this proceeding pursuant to Article IV, Section 6 of FINRA's By-Laws and FINRA Funding Portal Rule 100(a)³ because (1) the Complaint was filed within two years after the effective date of termination of DreamFunded's status as a FINRA funding portal member, namely November 3, 2017; and (2) the Complaint charges DreamFunded with misconduct committed while it was a FINRA funding portal member and with failing to respond to a FINRA request for information during the two-year period after the date upon which it ceased being a FINRA funding portal member.

7. Although Fernandez is no longer 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 and FINRA Funding Portal Rule 100(a) because (1) the Complaint was filed within two years after the date upon which he ceased to be an associated person of a FINRA

² Form Funding Portal ("Form FP") is the Application or Amendment to Application for Registration or Withdrawal from Registration as Funding Portal under the Securities Exchange Act of 1934. A Form FP may be an initial application to register as a funding portal, an amendment to any part of a prior Form FP, or a withdrawal of the funding portal's registration.

³ FINRA Funding Portal Rule 100(a) states that all funding portal members and persons associated with funding portal members shall be subject to the FINRA By-Laws.

funding portal member, namely November 3, 2017; and (2) the Complaint charges him with misconduct committed while he was associated with a FINRA member and with failing to respond to a FINRA request for information during the two-year period after the date upon which he ceased to be an associated person of a FINRA funding portal member.

FACTS

A. Failure to Comply with Rule 8210 Request

8. On October 24, 2017, in connection with its investigation into DreamFunded's crowdfunding operations, FINRA staff issued a Rule 8210 request to Fernandez, in his capacity as Chief Executive Officer of DreamFunded, that sought documents and information concerning fundraising efforts conducted ostensibly to finance DreamFunded's business operations, including representations made to investors and the uses of funds raised from those investors. The deadline for responding to the Rule 8210 request was November 7, 2017.

9. On November 3, 2017, counsel for DreamFunded and Fernandez acknowledged in writing that DreamFunded and Fernandez had received the Rule 8210 request and stated that they would not produce any of the documents or information requested.

10. Shortly thereafter, DreamFunded and Fernandez retained new counsel and, on December 5, 2017, they informed FINRA staff through their new counsel that, contrary to prior representations, they intended to respond to the October 24 Rule 8210 request.

11. Accordingly, on December 15, 2017, FINRA staff sent a follow-up letter to DreamFunded and Fernandez regarding the October 24 Rule 8210 Request. The follow-up letter advised DreamFunded and Fernandez that their failure previously to respond constituted a violation of FINRA Rule 8210. Nevertheless, FINRA staff provided DreamFunded and Fernandez with a new deadline of December 29, 2017 to respond to the October 24 Rule 8210

request. FINRA staff subsequently extended that deadline until January 5, 2018 upon request by, and as a courtesy to, new counsel for DreamFunded and Fernandez.

12. On January 5 and January 19, 2018, DreamFunded and Fernandez provided limited document productions in response to only a subset of the requests contained in the Rule 8210 request. For example, they did not produce financial records, bank account statements, and investor agreements responsive to the request. Without such documents, FINRA staff was unable to fully investigate whether Fernandez and/or DreamFunded violated additional rules in connection with their fundraising efforts conducted ostensibly on behalf of DreamFunded.

13. The January 19 production was accompanied by a doctor's note representing that Fernandez was ill and unable to work between January 17 and January 20, 2018.

14. In light of the doctor's note, FINRA staff granted DreamFunded and Fernandez yet another extension of time, until January 29, 2018, to provide a complete response to the Rule 8210 request.

15. On January 25, 2018, new counsel informed FINRA staff that he too would no longer be representing DreamFunded or Fernandez. The following day, Fernandez sent FINRA staff a second doctor's note, this one dated January 23, 2018, which stated that Fernandez would be unable to resume a normal workload until February 5, 2018. The note did not identify any illness that Fernandez was suffering from or otherwise specify the reason for his alleged inability to work.

16. Moreover, during the time period when Fernandez claimed he was incapacitated, his social media posts indicate that he traveled out of town to enjoy, among other things, a film festival in Salt Lake City and a concert in Las Vegas.

17. As of the date of the filing of this Complaint, DreamFunded and Fernandez have not provided a complete response to the Rule 8210 request issued in October 2017.

B. Crowdfunding Offerings at Issue

18. Between July 2016 and October 2017, DreamFunded acted as an intermediary in 15 crowdfunding offerings conducted in reliance on Section 4(a)(6) of the Securities Act of 1933. Of those, two closed with investor funds being distributed to the issuers.

19. The first of those offerings involved Company A, a social networking company with no assets, revenue, or operating history. Company A filed Form C⁴ with the SEC on October 28, 2016, which indicated that the offering would remain open until September 26, 2017. However, the offering was closed early, on June 26, 2017, and investor funds were distributed to the company.

20. The second of those offerings involved Company B, a health and wellness company, which claimed assets of less than \$5,000 and prior-year (2016) revenue of \$12,250. Company B filed Form C with the SEC on January 23, 2017, which indicated that the offering would remain open until June 30, 2017. However, the offering was closed early, on April 14, 2017, and investor funds were distributed to the company.

21. A third company relevant here, Company C, also conducted an offering with DreamFunded acting as the intermediary. As described more fully below, Fernandez, acting on behalf of DreamFunded, falsely claimed on a cable television broadcast—which he also later posted on social media—that he, on behalf of DreamFunded, had invested \$1 million in Company C.

⁴ The Form C is used for the offering statement, and any related amendments and progress reports, required to be filed by any issuer offering or selling securities in reliance on the exemption in Securities Act Section 4(a)(6) and Regulation Crowdfunding.

C. Violations of Regulation Crowdfunding and FINRA Funding Portal Rules

22. The SEC adopted Regulation Crowdfunding pursuant to both the Securities Act and Exchange Act to implement the requirements of Title III of the Jumpstart Our Business Startups (“JOBS”) Act. The JOBS Act’s crowdfunding provisions were intended to help provide startups and small businesses with capital by making relatively low dollar offerings of securities, featuring relatively low dollar investments by the “crowd,” less costly. Congress included a number of provisions intended to protect investors who engage in these transactions, including, among other things, required disclosures to investors and the requirement that issuers use regulated intermediaries to list offerings. These intermediaries must register with the SEC and become a member of a national securities association, such as FINRA, and thus become subject to a number of investor-protection themed regulations and rules.

23. Pursuant to the SEC’s mandate, FINRA promulgated its Funding Portal Rules, which became effective on January 29, 2016. The rules were written specifically for funding portals and streamlined to reflect the limited scope of activity permitted by funding portals while also maintaining investor protection. Funding portal members could begin acting as an intermediary for issuers beginning May 16, 2016.

24. DreamFunded, by and through Fernandez, violated multiple Regulation Crowdfunding Rules and FINRA Funding Portal Rules in connection with the 15 offerings made available to investors through DreamFunded’s portal.

1. False and/or Misleading Issuer Communications

25. Initially, there were multiple bases upon which DreamFunded and Fernandez knew or had reason to know that communications made available through DreamFunded’s website by companies conducting offerings through its portal contained untrue statements of a

material fact or were otherwise false or misleading and presented the potential for fraud or otherwise raised concerns about investor protection.

26. As alleged above, Company A had no assets, revenue, or operating history but claimed a \$1 million valuation without providing any support or basis. Similarly, the company claimed without any support or basis that it was in a “\$9B market,” that it could achieve a “\$900MM+ market cap,” and that it projected 100 million active users by its fifth year of operation. The company also claimed that its exit strategy was to be acquired at a sales target of \$500 million, which would provide a significant return to investors. The company then listed numerous well-established internet and technology companies as potential “strategic acquisition partners” with no basis or support for doing so.

27. When Company A closed its offering early, it requested that DreamFunded, through Fernandez, transfer the investor funds raised through DreamFunded’s portal to the personal checking account of the company’s CEO. Communications from the CEO available to DreamFunded and Fernandez at that time indicated that the relevant checking account had a negative account balance and was being charged overdraft fees.

28. Similarly, Company B claimed assets of \$2.3 million, which it attributed almost entirely to an online content library, though it provided no support or basis for this valuation. Moreover, in contrast to the \$2.3 million asset valuation, the company’s Form C claimed assets of only \$2,333 and the unaudited financial statements attached to its Form C included assets of only \$4,362. The company also included with its Form C a “business plan” that projected 2017 revenue of \$500,000 and 2018 revenue of \$2 million but provided no basis or support for these projections. Also, the Form C included a “budget plan” that projected 2017 revenue of only \$294,000 and did not explain the disparity between that number and the \$500,000 revenue

projection for 2017 in the company's "business plan." The company's Form C and financial statements also included inconsistent revenue figures for 2016 with no explanation for that disparity either. Furthermore, the company made unrealistic comparisons between itself and established companies and falsely implied that it was endorsed by a leading entertainment and lifestyle celebrity.

29. Despite these suspicious facts, DreamFunded and Fernandez did not remove Company A's or Company B's offering from the DreamFunded portal or, at a minimum, remove the potentially false or misleading statements.

30. As such, DreamFunded ignored facts that raised investor protection concerns such that a reasonable person would have denied access to its platform to these issuers. DreamFunded and Fernandez did not, however, deny access to DreamFunded's platform to Company A and Company B.

2. DreamFunded's Own False or Misleading Communications

31. DreamFunded and Fernandez themselves made numerous false or misleading statements on the funding portal.

32. For example, DreamFunded stated on its website that it followed the Angel Capital Association's "strict due diligence guidelines," the purpose of which was to "mitigate investment risk by gaining an understanding of a company and its market." DreamFunded also claimed that the firm's "due diligence and deal flow screening team screens each company that is applying to be featured on the DreamFunded platform." DreamFunded and Fernandez did not, however, follow the Angel Capital Association's due diligence guidelines. Likewise, DreamFunded did not have a due diligence and deal flow screening team. Therefore, these claims (of due diligence and deal flow screening) were false and unwarranted and were designed

to mislead investors into a false sense of security regarding the level of due diligence conducted with respect to the offerings featured on the DreamFunded portal.

33. In addition, DreamFunded's website included a section titled "Invest," which contained "deal tombstones" for numerous residential properties that DreamFunded claimed had been "funded" with annual returns of 10 percent. None of these properties, however, had been the subject of an offering intermediated by DreamFunded. Inclusion of these tombstones was misleading because it created the false impression that these and similar offerings were conducted through DreamFunded's funding portal and that investors could similarly expect a 10 percent annual return from the offerings intermediated through the DreamFunded portal.

34. DreamFunded also included a misleading rotating banner that appeared above the property deal tombstones on its website described above. One page of the banner stated "Tired of Low CD Rates? Put your money to work." This statement was misleading because it created the false impression that investing in crowdfunding offerings was comparable to investing in federally insured bank products such as certificates of deposit.

35. Another page of the banner stated "Tired of Your Banker Using Your Money and Loaning It To Someone Else – Cut Out the Middleman, Invest Directly." This statement was misleading because it created the false impression that investing in crowdfunding offerings was comparable to bank deposits.

36. Fernandez also made misleading statements outside of the funding portal that related to issuers conducting offerings through DreamFunded's portal.

37. For example, in October 2016, Fernandez, representing DreamFunded, was a guest on a cable television network program that purported to match inventors with investors. On the program, Fernandez claimed to have invested \$1 million for 30 percent ownership in

Company C, which subsequently conducted an offering through DreamFunded's funding portal. Fernandez had not, in fact, made any investment in Company C and soon thereafter determined that he had no intention of investing in the company.

38. However, Fernandez posted a video of his appearance, including his false claim to have invested \$1 million in Company C, on a social networking platform, where it remained while Company C conducted its offering and attempted to raise investor funds through DreamFunded's portal. The misleading video remained available through Fernandez's and DreamFunded's social media accounts even after its veracity was questioned by FINRA staff.

3. No Reasonable Basis for Believing that Issuers Complied with Section 4A(b) of the Securities Act of 1933

39. DreamFunded and Fernandez did not have a reasonable basis—as Regulation Crowdfunding requires—for believing that issuers seeking to offer and sell securities on their funding portal complied with the requirements of Section 4A(b) of the Securities Act and related rules.

40. Section 4A(b) and Regulation Crowdfunding Rule 201 require that issuers file with the SEC and provide to investors and the relevant intermediary certain information, including a description of the financial condition of the issuer and financial statements that are either audited, reviewed by a public accountant, or certified by the issuer's principal executive officer to be true and complete in all material respects. For issuers with no prior operating history, the issuer must provide a discussion focusing on financial milestones and operational, liquidity, and other challenges. For issuers with an operating history, the discussion should focus on whether historical results and cash flows are representative of what investors should expect in the future.

41. Company A's Form C included a certification from the company's CEO that the financial statements contained therein were true and complete in all material respects. However, there were no financial statements included with Company A's Form C. Because there were no financial statements that could have been true and complete, DreamFunded and Fernandez could not have had a reasonable basis to believe that Company A complied with Section 4A(b) and Regulation Crowdfunding Rule 201.

42. Company B's Form C included financial information projecting exponential revenue growth—from historical revenue of \$12,250 in 2016 to projected revenue of \$500,000 in 2017 and \$2 million in 2018. Company B did not, however, include any discussion about whether or how its historical results were representative of, and provided reasonable support or basis for, the exponential growth projected in the company's financial information. Because there was no such discussion or other bases for the revenue projections, DreamFunded and Fernandez could not have had a reasonable basis to believe that Company B complied with Section 4A(b) and Regulation Crowdfunding Rule 201.

4. Failure to Perform Background Checks

43. Regulation Crowdfunding requires that an intermediary such as DreamFunded conduct background checks on issuers and their principals.

44. DreamFunded and Fernandez, however, did not perform a meaningful background check or perform any securities enforcement regulatory history check in relation to any of the 15 offerings for which it acted as intermediary. Fernandez purportedly obtained a LexisNexis account to perform background checks, but he never learned how to use it. Moreover, the aforementioned purported LexisNexis account was not opened until January 2017, after six offerings had already appeared on DreamFunded's portal.

45. In many instances, DreamFunded and Fernandez performed a cursory background check only after an issuer's offering had been made available to investors through its funding portal.

46. In other instances, DreamFunded and Fernandez sought background information on issuers and their principals only after FINRA staff issued requests pursuant to FINRA Rule 8210 seeking evidence that background checks had been performed.

5. Failure to Provide Required Notices to Investors

47. Regulation Crowdfunding includes requirements for funding portals to provide notice to investors upon the occurrence of certain events.

48. For example, funding portals must promptly, upon receipt of an investment commitment from an investor, provide notice to the investors disclosing the dollar amount of the commitment, the price of the securities, the name of the issuer, and the date and time by which the investor could cancel their commitment. With respect to the Company A and Company B offerings described above, the notices that DreamFunded and Fernandez provided to investors did not include the price of the securities, which was known at the time, or the date by which the investors could cancel their investment commitments.

49. Similarly, Regulation Crowdfunding requires that intermediaries provide notice to any investor who has made an investment commitment of any material change to the terms of an offering or to the information provided by an issuer. Company A filed three amendments to its Form C that included material changes, including changes in ownership and a reduction in the size of the offering. DreamFunded and Fernandez did not, however, provide any notice of these material changes to investors.

50. Likewise, Regulation Crowdfunding provides that, if an issuer reaches its target funding amount prior to the deadline identified in its offering materials, it may close the offering

on an earlier date but the intermediary must provide notice to investors—which must include notice of investors’ rights to rescind their investment commitment for any reason until 48 hours prior to the new offering deadline. Both Company A and Company B closed their offerings early but DreamFunded and Fernandez failed to provide any notice to investors of the closing of the offerings prior to the deadline in the offering materials and of their right to cancel their investment commitments.

51. Regulation Crowdfunding also required DreamFunded, at or before the completion of a transaction in a security, to give or send to each investor a confirmation disclosing the date of the transaction, the type of security that the investor was purchasing, and the identity, price, and number of securities purchased by the investor, as well as the number of securities sold by the issuer in the transaction and the price(s) at which the securities were sold. In regard to both Company A and Company B, DreamFunded and Fernandez did not provide a confirmation to investors when the offerings closed and securities were issued.

6. Lack of Reasonable Supervision

52. Regulation Crowdfunding and the FINRA Funding Portal Rules require that intermediaries implement a reasonably-designed supervisory system and written policies and procedures.

53. As evidenced by the above-described violations of Regulation Crowdfunding Rules and FINRA Funding Portal Rules, DreamFunded, by and through Fernandez, did not reasonably supervise its activities or those of its associated persons.

54. Furthermore, although DreamFunded had written policies and procedures, they lacked substance and largely just parroted the requirements of Regulation Crowdfunding.

55. Moreover, DreamFunded’s employees were not provided with the firm’s policies and procedures.

56. Fernandez himself rarely referred to the policies and procedures and, in many instances, did not follow the policies and procedures himself or ensure they were implemented or complied with by DreamFunded or its employees.

FIRST CAUSE OF ACTION
Failing to Provide Documents and Information
(FINRA Funding Portal Rules 800(a) and 200(a) and FINRA Rule 8210)

57. The Department realleges and incorporates by reference paragraphs 1 through 56 above.

58. FINRA Funding Portal Rule 800(a) provides that funding portal members and associated persons of such members are subject to, among other FINRA Rules, FINRA Rule 8210.

59. FINRA Rule 8210 provides that, for the purpose of an investigation, complaint, examination, or proceeding authorized by the FINRA By-Laws or rules, FINRA staff shall have the right to require a member, person associated with a member, or any other person subject to FINRA's jurisdiction to provide information orally, in writing, or electronically, and to inspect and copy the books, records, and accounts of such member or person, with respect to any matter involved in the investigation, complaint, examination, or proceeding that is in such member's or person's possession, custody or control.

60. FINRA Funding Portal Rule 200(a) requires funding portal members, in the conduct of their business, to observe high standards of commercial honor and just and equitable principles of trade.

61. As described above, on October 24, 2017, FINRA staff served on Fernandez, in his capacity as Chief Executive Officer of DreamFunded, a request for information and documents pursuant to FINRA Rule 8210. As of the date of the filing of the Complaint,

DreamFunded and Fernandez have not produced all documents in their possession, custody, or control responsive to each request.

62. FINRA staff gave DreamFunded and Fernandez four extensions of time during a four-month period in which to provide the information and documents requested in the October 24 Rule 8210 request.

63. By not providing the documents and information as requested pursuant to FINRA Rule 8210, Respondents violated FINRA Funding Portal Rule 800(a) and FINRA Rule 8210. By virtue of these violations, DreamFunded and Fernandez also violated FINRA Funding Portal Rule 200(a).

**SECOND CAUSE OF ACTION
False or Misleading Issuer Communications
(FINRA Funding Portal Rules 200(c)(3) and 200(a)
and Regulation Crowdfunding Rule 301(c)(2))**

64. The Department realleges and incorporates by reference paragraphs 1 through 63 above.

65. FINRA Funding Portal Rule 200(c)(3) prohibits funding portals from including on their websites any issuer communication that the funding portal knows or has reason to know contains any untrue statement of a material fact or is otherwise false or misleading.

66. Regulation Crowdfunding Rule 301(c)(2) requires a funding-portal intermediary such as DreamFunded to, among other things, deny issuers access to its platform if it has a “reasonable basis” for believing that the issuer or offering “presents the potential for fraud or otherwise raises concerns about investor protection.” Under this standard, an intermediary may not ignore facts about an issuer that indicate fraud or investor protection concerns such that a reasonable person would have denied access to the platform or cancelled the offering.

67. As described above, DreamFunded and Fernandez knew or had reason to know that Company A and Company B had unrealistic and unwarranted valuations and oversimplified and overly-optimistic financial forecasts.

68. Accordingly, DreamFunded and Fernandez ignored facts that indicated investor protection concerns such that a reasonable person would have denied access to its platform to these issuers.

69. DreamFunded and Fernandez therefore violated FINRA Funding Portal Rule 200(c)(3) and Regulation Crowdfunding Rule 301(c)(2). By virtue of these violations, DreamFunded and Fernandez also violated FINRA Funding Portal Rule 200(a).

THIRD CAUSE OF ACTION
False or Misleading Funding Portal Communications
(FINRA Funding Portal Rules 200(b), 200(c)(2), and 200(a))

70. The Department realleges and incorporates by reference paragraphs 1 through 69 above.

71. FINRA Funding Portal Rule 200(b) prohibits funding portal members from effecting any transaction in, or inducing the purchase or sale of, any security by means of, or by aiding or abetting, any manipulative, deceptive or other fraudulent device or contrivance. Funding Portal Rule 200(c)(2) prohibits funding portals from making any false, exaggerated, unwarranted, promissory or misleading statements or claims to investors.

72. As described above, Fernandez and DreamFunded, acting through Fernandez, made false and unwarranted statements regarding due diligence and deal flow screening, real estate investments that were not conducted through DreamFunded, equivalencies between crowdfunding and bank deposits, and DreamFunded's purported \$1 million investment in Company C.

73. Accordingly, DreamFunded and Fernandez violated FINRA Funding Portal Rules 200(b) and 200(c)(2). By virtue of these violations, DreamFunded and Fernandez also violated FINRA Funding Portal Rule 200(a).

FOURTH CAUSE OF ACTION
No Reasonable Basis for Believing Issuer Compliance
(Regulation Crowdfunding Section 301(a) and FINRA Funding Portal Rule 200(a))

74. The Department realleges and incorporates by reference paragraphs 1 through 73 above.

75. Regulation Crowdfunding Rule 301(a) requires funding-portal intermediaries such as DreamFunded to, among other things, have a reasonable basis for believing that companies seeking to offer and sell securities on their platform comply with the requirements of Securities Act Section 4A(b).

76. Company A falsely claimed in its Form C that it provided financial statements to potential investors that were true and complete in all material respects. Because Company A's Form C did not include any financial statements, that certification was objectively false.

77. Company B failed to include in its Form C any discussion on whether or how its historical results were representative of, and provided reasonable support or basis for, the exponential revenue growth projected in the company's financial information supplied to potential investors.

78. DreamFunded and Fernandez therefore did not have a reasonable basis to believe that Company A and Company B complied with Section 4A(b).

79. Accordingly, DreamFunded and Fernandez violated Regulation Crowdfunding Rule 301(a). By virtue of these violations, DreamFunded and Fernandez also violated FINRA Funding Portal Rule 200(a).

FIFTH CAUSE OF ACTION
Failure to Perform Meaningful Background Checks
(Regulation Crowdfunding Rule 301(c)(1) and FINRA Funding Portal Rule 200(a))

80. The Department realleges and incorporates by reference paragraphs 1 through 79 above.

81. Regulation Crowdfunding Rule 301(c)(1) provides that an intermediary must, at a minimum, conduct a background and securities enforcement regulatory history check on each issuer whose securities are to be offered by the intermediary and on each officer, director, or beneficial owner of 20 percent or more of the issuer's outstanding voting equity securities, calculated on the basis of voting power.

82. As described above, in regard to each offering listed on its crowdfunding portal, DreamFunded and Fernandez did not perform a timely and meaningful background check or perform any securities enforcement regulatory history check.

83. Accordingly, DreamFunded and Fernandez violated Regulation Crowdfunding Rule 301(c)(1). By virtue of these violations, DreamFunded and Fernandez also violated FINRA Funding Portal Rule 200(a).

SIXTH CAUSE OF ACTION
Failure to Provide Investors With Notice of Material Changes
(Regulation Crowdfunding Rule 304(c)(1) and FINRA Funding Portal Rule 200(a))

84. The Department realleges and incorporates by reference paragraphs 1 through 83 above.

85. Regulation Crowdfunding Rule 304(c)(1) requires that intermediaries provide to any investor who has made an investment commitment notice of any material change to the terms of an offering or to the information provided by the issuer. This notice must state

that the investor's commitment will be cancelled unless the investor reconfirms his or her investment commitment within five business days of receipt of the notice.

86. As described above, Company A filed three Form C amendments that included material changes. DreamFunded and Fernandez did not provide any notice of these material changes to investors.

87. Accordingly, DreamFunded and Fernandez violated Regulation Crowdfunding Rule 304(c)(1). By virtue of these violations, DreamFunded and Fernandez also violated FINRA Funding Portal Rule 200(a).

SEVENTH CAUSE OF ACTION
Failure to Provide Investors With Notice of Change of Offering Deadlines
(Regulation Crowdfunding Rule 304(b)(2) and FINRA Funding Portal Rule 200(a))

88. The Department realleges and incorporates by reference paragraphs 1 through 87 above.

89. Regulation Crowdfunding Rule 304(b)(2) provides that, if an issuer reaches its target funding amount prior to the deadline identified in its offering materials, it may close the offering on an earlier date. In such instances, the intermediary must provide notice to potential investors, and provide notice to investors that have already made investment commitments, of the new anticipated deadline for the offering. That notice must inform investors of their right to cancel investment commitments for any reason until 48 hours prior to the new offering deadline.

90. As described above, DreamFunded and Fernandez did not comply with this requirement with respect to two offerings conducted through its portal. Specifically, Company A's offering was closed and investor funds were distributed on or around June 26, 2017, although the offering deadline disclosed to investors was September 26, 2017.

Likewise, Company B's offering was closed and investor funds were distributed on or around April 14, 2017, although the offering deadline disclosed to investors was June 30, 2017. In both instances, DreamFunded and Fernandez failed to provide notice to investors of the closing of the offerings prior to the deadline in the offering materials and of their right to cancel their investment commitments.

91. Accordingly, DreamFunded and Fernandez violated Regulation Crowdfunding Rule 304(b)(2). By virtue of these violations, DreamFunded and Fernandez also violated FINRA Funding Portal Rule 200(a).

EIGHTH CAUSE OF ACTION
Failure to Provide Investors With Notice of Required Information
(Regulation Crowdfunding Rule 303(d) and FINRA Funding Portal Rule 200(a))

92. The Department realleges and incorporates by reference paragraphs 1 through 91 above.

93. Regulation Crowdfunding Rule 303(d) requires that intermediaries promptly, upon receipt of an investment commitment from an investor, provide notice to the investor disclosing the dollar amount of the investment commitment, the price of the securities, if known, the name of the issuer, and the date and time by which the investor may cancel the investment commitment.

94. As described above in relation to Company A's and Company B's offerings, the notice of investment commitment that DreamFunded and Fernandez provided to investors did not include the price of the securities, which were known at the time, and the date and time by which the investors could cancel their investment commitments.

95. Accordingly, DreamFunded and Fernandez violated Regulation Crowdfunding Rule 303(d). By virtue of these violations, DreamFunded and Fernandez also violated FINRA Funding Portal Rule 200(a).

NINTH CAUSE OF ACTION
Failure to Provide Investors With Notice of Completion of Transactions
(Regulation Crowdfunding Rule 303(f) and FINRA Funding Portal Rule 200(a))

96. The Department realleges and incorporates by reference paragraphs 1 through 95 above.

97. Regulation Crowdfunding Rule 303(f) requires that an intermediary, at or before the completion of a transaction in a security, give or send to each investor a notification disclosing the date of the transaction, the type of security that the investor is purchasing, and the identity, price, and number of securities purchased by the investor, as well as the number of securities sold by the issuer in the transaction and the price at which the securities were sold.

98. As described above in relation to Company A's and Company B's offerings, DreamFunded and Fernandez did not give or send confirmations to investors when the offerings were closed and securities were issued.

99. Accordingly, DreamFunded and Fernandez violated Regulation Crowdfunding Rule 303(f). By virtue of these violations, DreamFunded and Fernandez also violated FINRA Funding Portal Rule 200(a).

TENTH CAUSE OF ACTION
Supervision
(FINRA Funding Portal Rules 300(a) and 200(a)
and Regulation Crowdfunding Rule 403(a) and)

100. The Department realleges and incorporates by reference paragraphs 1 through 99 above.

101. Regulation Crowdfunding Rule 403(a) requires that funding portals implement written policies and procedures reasonably designed to achieve compliance with the federal securities laws and the rules and regulations thereunder.

102. FINRA Funding Portal Rule 300(a) requires that funding portal members establish and maintain a system to supervise the activities of each associated person of the funding portal member that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with FINRA's Funding Portal Rules.

103. As evidenced by the above-described violations of Regulation Crowdfunding Rules and FINRA Funding Portal Rules, DreamFunded, by and through Fernandez, did not reasonably supervise its activities or those of its associated persons.

104. Furthermore, although DreamFunded had written policies and procedures, they lacked substance, largely parroted the requirements of Regulation Crowdfunding, were not provided to DreamFunded employees, and were rarely referred to or implemented.

105. Accordingly, DreamFunded and Fernandez violated Regulation Crowdfunding Rule 403(a) and FINRA Funding Portal Rule 300(a). By virtue of those violations, DreamFunded and Fernandez also violated FINRA Funding Portal Rule 200(a).

RELIEF REQUESTED

WHEREFORE, the Department of Enforcement respectfully requests that the Panel:

- A. make findings of fact and conclusions of law that DreamFunded and Fernandez committed the violations charged and alleged herein;
- B. order that one or more of the sanctions provided under FINRA Rule 8310(a), including monetary sanctions, be imposed; and
- C. order that DreamFunded and Fernandez 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: February 23, 2018

Respectfully submitted,



Edwin Aradi
Senior Counsel
FINRA Department of Enforcement
15200 Omega Drive, 3rd Floor
Rockville, MD 20850
301.258.8555
edwin.aradi@finra.org