

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

Department of Enforcement,

Complainant,

v.

Suzanne Marie Capellini
CRD No. 1357703,

Respondent.

Disciplinary Proceeding
No. 2020066627202

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. From January 2018 through May 2020 (the “relevant period”), Respondent Suzanne Capellini, the Anti-Money Laundering Compliance Officer (AMLCO) at First Manhattan Co. (CRD No. 1845), failed to develop and implement a reasonable anti-money laundering (AML) program for one of the firm’s lines of business, namely, the deposit and trading of microcap securities by firm customers. In particular, the firm did not have a reasonable system for identifying potentially suspicious activity in microcap securities and its AML policies and procedures did not provide guidance about how to identify or address red flags of such activity. As a result, Capellini failed to take reasonable steps to detect and investigate potentially suspicious activity in a First Manhattan account controlled by one of her family members (Customer A), including a pattern of depositing physical certificates of microcap securities and then promptly selling the shares and wiring the proceeds out of the account; Capellini also failed to consider whether this activity necessitated the filing of a Suspicious Activity Report (SAR). As a result, Capellini violated FINRA Rules 3310(a) and 2010.

2. Capellini also violated FINRA Rules 8210 and 2010 by providing false or misleading information to FINRA in response to Rule 8210 requests that asked First Manhattan to produce “due diligence inquiries that [it] made to determine the free trading basis of” certain of Customer A’s microcap securities. In responding to the Rule 8210 requests on behalf of First Manhattan, Capellini produced to FINRA numerous documents she represented were included in the firm’s due diligence files when, in fact, they were not. Capellini only obtained these documents *after* she had received FINRA’s Rule 8210 requests. Producing such documents to FINRA was false or misleading, and in so doing, Capellini violated FINRA Rules 8210 and 2010.

RESPONDENT AND JURISDICTION

3. Capellini became registered as a General Securities Representative and General Securities Principal through an association with First Manhattan in 1985. In 1986, she became registered with FINRA through First Manhattan as a General Securities Sales Supervisor.

4. From February 2004 through January 2018, Capellini was First Manhattan’s alternate AMLCO and one of the principals primarily responsible for supervising First Manhattan’s AML program.

5. During the relevant period, Capellini was a compliance director at First Manhattan and the firm’s AMLCO. As AMLCO, Capellini was responsible for establishing and implementing First Manhattan’s AML program.

6. On June 5, 2020, First Manhattan filed a Uniform Termination Notice for Securities Industry Registration (Form U5), disclosing that it had terminated Capellini’s registrations due to a “[l]oss of trust and confidence regarding [her] compliance responsibilities, including the responsibility to submit accurate responses to FINRA.”

7. Although Capellini is no longer registered or associated with a FINRA member, she remains subject to FINRA's jurisdiction for purposes of this proceeding, pursuant to Article V, Section 4 of FINRA's By-Laws, because (1) the Complaint was filed within two years after June 5, 2020, which was the effective date of termination of Capellini's registration with First Manhattan, and (2) the Complaint charges her with misconduct committed while she was registered or associated with a FINRA member.

FACTS

A. Customer A

8. Customer A is a family member of Capellini.

9. In 2009, Customer A opened an account at First Manhattan in the name of a limited liability corporation he controlled and partially owned. Customer A was the sole signatory for the account and only authorized user of the account.

10. Between 2009 and 2020, Customer A opened three additional accounts at First Manhattan, all held in the names of corporate entities that he either owned or controlled.

11. During the relevant period, First Manhattan allowed its customers to transact in microcap securities, although revenue generated from its microcap business represented a small percentage of the firm's total revenue.

12. During the relevant period, Customer A was the customer of the firm who transacted most frequently in microcap securities.

13. During that time, Customer A had a pattern of depositing physical share certificates of microcap securities, selling the shares shortly after deposit, and then wiring or otherwise transferring the sales proceeds out of his accounts.

14. At all relevant times, Capellini was the only First Manhattan registered representative assigned to Customer A's accounts.

B. Capellini Was On Notice, Prior to the Relevant Period, that Customer A's Microcap Securities Transactions Raised Red Flags

15. On September 28, 2012 (while Capellini was the firm's alternate AMLCO), an employee in the AML compliance department of First Manhattan's clearing firm sent an email, entitled "AML Inquiry," to Capellini and several other individuals at First Manhattan.

16. The email advised Capellini and the other recipients that transactions in Customer A's account "ha[d] the red flags of receiving blocks of a low-priced security, liquidating, and sending the funds out of the account." The email requested that First Manhattan confirm that it was "comfortable with the transactions [in Customer A's account] considering the red flag indicators identified in [FINRA's] Regulatory Notice 09-05."

17. On October 2, 2012, First Manhattan's then-AMLCO sent a reply email to the clearing firm; Capellini was copied on that email.

18. First Manhattan's then-AMLCO told the clearing firm that First Manhattan was aware that the activity in Customer A's account "raised the red flags indicated." She also informed the clearing firm that Customer A "earn[ed] his living through the provision of corporate and media consulting services," and that the firm expected there to be "future deposits...of lower priced securities" in Customer A's account, including shares of microcap securities that he earned as "compensation for consulting services rendered."

19. In January 2013, in response to the clearing firm's inquiries, Capellini created a "pre-clearance" process for the deposit and sale of certain microcap securities in First Manhattan accounts.

20. In a memorandum to First Manhattan staff dated January 25, 2013, Capellini stated that, going forward, the firm would require representatives to use a “pre-clearance form” to satisfy the firm’s “regulatory obligation” to “inquire as to the source” of certain microcap securities.

21. The pre-clearance form required representatives to “provide specific details as to how and when” the customer seeking to deposit or sell microcap securities had acquired the shares in question.

22. However, the pre-clearance form did not provide guidance regarding what documents should be reviewed in connection with determining how long a customer had held the securities or how the customer had acquired the securities or the customer’s relationship, if any, to the issuer of the securities.

23. The pre-clearance form also did not ask for, or provide any method for verifying, how many shares of the security were outstanding or what was the relevant trading volume for the security.

24. First Manhattan did not have any process for verifying that representatives completed the pre-clearance form prior to the deposit or sale of any microcap securities.

25. As alleged below, First Manhattan allowed customers, including Customer A, to deposit and sell microcap securities when the registered representative for the account did not complete a pre-clearance form.

C. The Firm’s AML Policies and Procedures

26. First Manhattan’s AML Procedures in effect during the relevant period warned that because microcap securities “have been used in connection with fraudulent schemes and money

laundering activity,” “[s]uch transactions may warrant further due diligence to ensure the legitimacy of the customer’s activity.”

27. The AML Procedures also stated that a customer’s deposits or sales of microcap securities, “for no apparent reason or in conjunction with other red flags,” was a red flag of potential money laundering.

28. First Manhattan’s AML Procedures identified several other red flags of potential money laundering, including:

- a) when a customer “maintains multiple accounts, or maintains accounts in the names of family members or corporate entities, for no apparent purpose;”
- b) when a customer, for no apparent reason, “has multiple accounts under a single name or multiple names, with a large number of inter-account or third party transfers”; and
- c) when a customer’s account: (i) “has a large number of wire transfers to unrelated third parties inconsistent with the customer’s legitimate business purpose,” (ii) “initiates large or frequent wire transfers ... without any legitimate business purpose,” or (iii) “has wire transfers that have no apparent business purpose to or from a country identified as a money laundering risk or a bank secrecy haven.”

29. The AML Procedures, however, did not provide guidance about how to address red flags of potentially suspicious trading in microcap securities, nor did they describe what further due diligence should be conducted to ensure the legitimacy of a customer’s microcap securities transactions.

30. The AML Procedures also did not describe how First Manhattan should monitor, for AML purposes, information collected during the firm’s pre-clearance process for microcap securities.

31. During the relevant period, First Manhattan relied on an exception report that surveilled transactions of 50 million or more shares to identify potentially suspicious transactions in microcap securities.

32. However, nearly all of the firm's customers' microcap activity during the relevant period involved transactions with fewer than 50 million shares and therefore did not appear on the firm's exception reports.

D. Capellini's AML Reviews of Customer A's Transactions

33. During the relevant period, Customer A made 39 deposits of microcap securities into his First Manhattan account. In total, he deposited approximately 542,000 shares of microcap securities into his account during this period.

34. For 16 of the 39 deposits, Capellini did not complete a pre-clearance form or otherwise collect information relevant to determining: the circumstances through which Customer A acquired the shares; whether Customer A or the seller of the shares had any relationship to the issuer; or how many shares of the security were outstanding or the security's relevant trading volume.

35. For the remaining 23 deposits, Capellini completed a pre-clearance form which typically included documentation, such as a share purchase agreement, showing when Customer A acquired the shares, the seller from whom he acquired the shares, and the consideration paid.

36. However, even when Capellini completed a pre-clearance form, she typically did not include information necessary to determine: the circumstances through which Customer A acquired the shares; whether Customer A or the seller of the shares had any relationship to the issuer; or how many shares of the security were outstanding or the security's relevant trading volume.

37. With respect to 30 of the 39 deposits, Customer A sold some or all of the shares within 30 days of deposit, and typically shortly thereafter, wired the proceeds of the sales out of the account he controlled at First Manhattan.

38. During the relevant period, Customer A wired more than \$360,000 out of his account, the majority of which represented the proceeds from his sales of microcap securities.

39. Customer A's pattern of depositing physical certificates of microcap securities and then promptly liquidating those shares was an AML red flag.

40. Customer A's sales of these microcap securities presented additional red flags:

- a) Customer A often engaged in the first-ever public trade of the microcap securities in question;
- b) Customer A's sales of microcap securities frequently represented all or most of the daily trading volume of the securities in question;
- c) Some of Customer A's microcap securities transactions involved companies with limited or no revenues, that had frequent name or business line changes, or whose auditors had been censured by the Public Company Accounting Oversight Board (PCAOB);
- d) On many occasions, Customer A transferred money or microcap securities between and among his First Manhattan accounts and, separately, transferred funds and/or microcap securities to third parties; and
- e) Customer A received a transfer of microcap securities from an entity located in Switzerland, which is a high-risk jurisdiction for money laundering, into one of his First Manhattan accounts.

41. Because none of Customer A's transactions involving microcap securities during the relevant period involved 50 million or more shares, those transactions did not appear on the exception report that First Manhattan used to identify potentially suspicious activity.

42. During the relevant period, Capellini failed to take reasonable steps to detect and investigate these red flags, and she failed to consider whether Customer A's activity necessitated the filing of a SAR, as illustrated in the examples below.

i. Activity Involving Rivex Technology Corporation (RIVX)

43. On August 9, 2018, Customer A deposited 3,000 shares of Rivex Technology Corporation (RIVX) stock into his First Manhattan account.

44. RIVX's SEC filings described the company's business as "the development and sale of mobile games." The company's SEC filings further disclosed that RIVX had "not yet established an ongoing source of revenues sufficient to cover its operating costs" and that the company's accumulated losses and lack of revenue raised "substantial doubt about [its] ability to continue as a going concern."

45. Moreover, the attorney who opined in RIVX's registration statement as to the legality of the company's issuance of common stock had been the subject of an SEC order finding that the attorney had participated in a "pump-and-dump" scheme. In addition, the auditor responsible for auditing RIVX's financial statements from 2016 through 2019 was one of two named partners at a firm whose registration had been revoked by the PCAOB.

46. The only action Capellini took in connection with Customer A's deposit of RIVX shares was to complete a pre-clearance form that identified the number of shares Customer A intended to deposit and attached the share purchase agreement through which Customer A had acquired the shares.

47. Prior to August 14, 2018, the highest bid price for RIVX shares had been \$0.11 per share.

48. Prior to August 14, 2018, there had been no public sales of RIVX.

49. On August 14, 2018, less than a week after depositing the RIVX shares into his account, Customer A sold 100 RIVX shares for \$5.00 a share, which represented 50% of the total market volume for RIVX shares that day.

50. On October 9, 2018, RIVX filed with the SEC a Form 8-K disclosing that the company had "abandoned the business of development and sale of mobile games" and was "currently evaluating its future strategic business plans."

51. On October 24, 2018, Customer A entered a limit order to sell 1,500 shares at a price of \$5.00 a share, which he increased to 2,000 shares on November 14, 2018.

52. On November 14, 2018, Customer A sold an additional 550 shares of RIVX at \$5.00 per share, which represented 100% of the total market volume on that date.

53. For the 2018 calendar year, August 14 and November 14 were the only days on which RIVX shares traded. Customer A's sales represented approximately 86% of the company's total market volume for 2018.

54. In spite of the red flags identified above, Capellini failed to take reasonable steps to detect and investigate the potentially suspicious activity associated with Customer A's deposit and sales of RIVX shares, and she failed to consider whether it was necessary to report such activity on a SAR.

ii. Activity Involving The Remaro Group (REMO)

55. On August 5, 2019, Customer A deposited 2,000 shares of The Remaro Group (REMO) stock in his account.

56. At the time of deposit, REMO's SEC filings described the company's business as a "tourism agency, currently located in Ecuador, that provides tour guides for individual or group tours ... exclusively in Ecuador."

57. According to a Form 10-Q REMO filed with the SEC in June 2019, the company had no revenue during the nine-month period ending April 30, 2019, and had total assets of less than \$3,700. The Form 10-Q also disclosed that REMO's financial statements had been prepared "without audit," and that there was "substantial doubt about the Company's ability to continue as a going concern."

58. Moreover, REMO's November 2018 Form 10-Q disclosed that the PCAOB had revoked the registration of the public accounting firm responsible for REMO's 2016 and 2017 financial statements.

59. On August 7, 2019, Customer A entered a limit order to sell 500 shares at a price of \$2.00.

60. Prior to this order, the highest bid for REMO shares was \$.01 for 10,000 shares.

61. Prior to August 8, 2019, there had been no public sales of REMO.

62. On August 8, 2019, three days after depositing REMO shares into his First Manhattan account, Customer A sold 100 shares of REMO for \$2.00 per share, which represented 50% of the total market volume of REMO that day.

63. The only action Capellini took in connection with Customer A's deposit of REMO shares was to complete a pre-clearance form; however, Capellini completed the form four days *after* Customer A had deposited the shares into his account and *after* Customer A had already sold some of his REMO shares. The pre-clearance form only identified the number of REMO shares that Customer A had deposited into his account and attached the share purchase agreement through which Customer A had acquired the shares.

64. Between August 8 and September 10, 2019, Customer A sold 500 REMO shares, which reflected more than 71% of the stock's total market volume during that period.

65. In spite of the red flags identified above, Capellini failed to take reasonable steps to detect and investigate the potentially suspicious activity associated with Customer A's deposit and sales of REMO shares, and she failed to consider whether it was necessary to report such activity on a SAR.

iii. Activity Involving Lazex, Inc. (LAZX)

66. On May 13, 2019, Customer A deposited 2,000 shares of Lazex, Inc (LAZX) stock into his account.

67. At the time of deposit, LAZX's SEC filings described the company's business as "travel consulting and tour guide services," including "tour guide services specializing in arranging brewery tours for tourist visiting the Czech Republic."

68. According to the March 2019 Form 10-Q LAZX filed with the SEC, the company had no revenue during the nine-month period ending January 30, 2019. The Form 10-Q also disclosed that the company's accumulated deficit since inception totaled \$20,843 with additional losses anticipated, resulting in "substantial doubt about the Company's ability to continue as a going concern."

69. Capellini did not complete a pre-clearance form in connection with Customer A's deposit of LAZX stock.

70. On May 16, 2019, three days after depositing LAZX shares into his First Manhattan account, Customer A entered a limit order to sell 500 shares of LAZX at a price of \$2.00 per share.

71. Prior to May 16, 2019, the best bid for LAZX shares was \$.05 per share for 10,000 shares.

72. On May 24, 2019, Customer A sold 100 shares of LAZX at \$2.00 per share, which represented 100% of the stock's total market volume on that day.

73. Prior to May 24, 2019, there was only one public sale of the security on May 20, 2019.

74. Between May 24 and June 25, 2019, Customer A sold 500 shares of LAZX stock, which reflected 100% of the stock's total market volume during this period.

75. In spite of the red flags identified above, Capellini failed to take reasonable steps to detect and investigate the potentially suspicious activity associated with Customer A's deposit and sales of LAZX shares, and she failed to consider whether it was necessary to report such activity on a SAR.

E. Capellini Produced False or Misleading Information to FINRA

76. In 2019, FINRA conducted an investigation into trading in RIVX, LAZX, and REMO.

77. In connection with its investigation, FINRA requested, pursuant to FINRA Rule 8210, information from First Manhattan on November 19, 2019, December 4, 2019, and January 24, 2020, concerning First Manhattan's review of Customer A's transactions in RIVX, LAZX, and REMO, respectively.

i. The RIVX 8210 Request

78. On November 19, 2019, FINRA requested, pursuant to FINRA Rule 8210, that First Manhattan produce "all documentation related to all receipt, delivery, and/or transfer of RIVX stock" in Customer A's account, as well as "all due diligence inquiries made to determine the free trading basis of any RIVX shares sold by the account between August 2018 and November 7, 2019."

79. On November 26, 2019, Capellini, on behalf of the firm, sent a letter to FINRA responding to the November 19, 2019 Rule 8210 Request. In her response, Capellini identified several documents as responsive to FINRA's request for due diligence inquiries made by First Manhattan, including a legal opinion letter dated August 8, 2018 regarding RIVX's registration status and a shareholder list from RIVX's transfer agent. Capellini included both the opinion letter and shareholder list as attachments to her November 26, 2019 response to FINRA.

80. The legal opinion letter and shareholder list that Capellini produced to FINRA were not part of any due diligence inquiry that First Manhattan made in connection with Customer A's deposit of RIVX shares in August 2018 or Customer A's sales of RIVX shares in August 2018 and November 2018. Nor were they part of First Manhattan's due diligence file.

81. To the contrary, Capellini obtained the legal opinion letter and shareholder list from Customer A after she received FINRA's Rule 8210 request on November 19, 2019.

ii. The LAZX 8210 Request

82. On December 4, 2019, FINRA requested, pursuant to FINRA Rule 8210, that First Manhattan produce, among other things, "all due diligence inquiries that the firm made to determine the free trading basis of LAZX shares deposited by, or transferred into" Customer A's account. The request specified that the firm's response "include, if applicable, copies of stock certificates, attorney opinion letters, and any other documents detailing the origin of the shares."

83. On December 9, 2019, Capellini, on behalf of the firm, sent a letter to FINRA that attached several documents she identified as responsive to FINRA's request for due diligence inquiries made by First Manhattan, including two legal opinion letters and their respective attachments.

84. The legal opinion letters that Capellini produced to FINRA were not part of any due diligence inquiry that First Manhattan made in connection with Customer A's deposit of LAZX shares in May 2019 or Customer A's sales of LAZX shares in May and June 2019, nor were they part of First Manhattan's due diligence file.

85. To the contrary, Capellini obtained these materials from Customer A after she received FINRA's Rule 8210 request on December 4, 2019.

iii. The REMO 8210 Request

86. On January 24, 2020, FINRA requested, pursuant to FINRA Rule 8210, that First Manhattan produce “all due diligence inquiries that the firm made to determine the free trading basis of REMO shares deposited by, or transferred into” Customer A’s account. The request specified that the firm’s responses “include, if applicable, copies of stock certificates, attorney opinion letters, and any other documents detailing the origin of the shares.”

87. On January 27, 2020, Capellini, on behalf of the firm, sent a letter to FINRA that attached several documents she identified as responsive to FINRA’s request for due diligence inquiries made by First Manhattan, including a legal opinion letter that referenced and attached five exhibits.

88. The legal opinion letter that Capellini produced to FINRA was not part of any due diligence inquiry that First Manhattan made in connection with Customer A’s deposit of REMO shares in August 2019 or Customer A’s sales of REMO shares in August and September 2019, nor was it part of First Manhattan’s due diligence file.

89. To the contrary, Capellini obtained the legal opinion letter on January 26, 2020—two days after she received FINRA’s Rule 8210 request on January 24, 2020.

90. The legal opinion letter that Capellini provided to FINRA staff on January 27, 2020 was dated July 25, 2019, around the time of Customer A’s deposit of REMO shares at the firm.

91. The attorney who drafted the legal opinion letter (Attorney A) sent Capellini, at her personal email address, an email that attached Attorney A’s legal opinion letter regarding REMO shares on January 26, 2020.

92. Although the opinion letter referenced five exhibits (exhibits A through E), Attorney A’s email to Capellini only attached four exhibits (exhibits A, B, D, and E). Attorney A’s email

did not attach exhibit C, which his opinion letter described as a Form S-1 registration statement for REMO.

93. On January 27, 2020, at 10:09 am, Capellini forwarded the email she received from Attorney A to her First Manhattan email address; the forwarded email contained the opinion letter and exhibits A B, D, and E.

94. At 11:14 am on January 27, 2020, Capellini received an automated email from a printer at First Manhattan that attached a copy of Attorney A's opinion letter, the four exhibits that Attorney A had provided, and exhibit C, which was a Form S-1 registration statement for REMO. The copy of exhibit C that was attached to the 11:14 am email included a footer showing that it had been printed from the SEC's website on January 27, 2020.

95. On January 27, 2020, at 3:35 pm, Capellini received another automated email from a printer at First Manhattan that attached a copy of Attorney A's opinion letter, the four exhibits that Attorney A had provided, and a copy of exhibit C; this version of exhibit C did not contain any footer showing when the document had been printed.

96. As alleged above, on January 27, 2020, Capellini responded to FINRA's Rule 8210 request about the REMO shares. Capellini's response included Attorney A's opinion letter, the four exhibits that Attorney A had provided, and a copy of exhibit C without the footer showing the date when the document had been printed.

97. In April 2020, personnel of First Manhattan searched Capellini's office and found a folder containing a hard copy of FINRA's January 24, 2020 Rule 8210 request, and the January 27, 2020 letter response that Capellini submitted on behalf of the firm. Within the folder was a hard copy of exhibit C—the Form S-1 registration statement for REMO without a footer showing

the date when it was printed. The bottom of each of the 51 pages of exhibit C where the footer would have been located was cut off unevenly, with what appeared to be scissors.

FIRST CAUSE OF ACTION
Failure to Establish and Implement a Reasonable AML Program
(Violation of FINRA Rules 3310(a) and 2010)

98. The Department of Enforcement realleges and incorporates by reference all preceding paragraphs.

99. FINRA Rule 3310 requires member firms to “develop and implement a written anti-money laundering program reasonably designed to achieve and monitor the member’s compliance with the requirements of the Bank Secrecy Act (31 U.S.C. 5311, *et seq.*), and the implementing regulations promulgated thereunder by the Department of the Treasury.”

100. FINRA Rule 3310(a) further requires that member firms “[e]stablish and implement policies and procedures that can be reasonably expected to detect and cause the reporting of transactions required under [the Bank Secrecy Act (BSA)] and the implementing regulations thereunder.”

101. The regulations implementing the BSA, in turn, require broker-dealers to file with the Financial Crime Enforcement Network “a report of any suspicious transaction relevant to a possible violation of law or regulation.”

102. A violation of FINRA Rule 3310 also constitutes a violation of FINRA Rule 2010, which requires associated persons in the conduct of their business to “observe high standards of commercial honor and just and equitable principles of trade.”

103. In Notice to Members (NTM) 02-21, FINRA provided detailed guidance to member firms about their obligation to monitor for and report suspicious transactions.

104. In NTM 02-21, FINRA also advised members of their duty to look for red flags and provided broker-dealers with a non-exhaustive list of red flags suggestive of money laundering or other violative activity, including when a “customer, for no apparent reason or in conjunction with other ‘red flags,’ engages in transactions involving certain types of securities, such as penny stocks ...” If such red flags were detected, FINRA advised members in that notice to “perform additional due diligence before proceeding with the transaction.”

105. In NTM 02-47, FINRA advised members of their duty to file a SAR for certain suspicious transactions. That notice referred to the red flags listed in NTM 02-21.

106. As First Manhattan’s AMLCO during the relevant period, Capellini was responsible for the firm’s AML program.

107. As alleged above, from January 2018 through May 2020, Capellini failed to develop and implement a reasonable AML program for one of the firm’s lines of business, namely, the deposit and trading of microcap securities by firm customers. In particular, Capellini failed to establish and implement AML policies and procedures that could be reasonably expected to detect and cause the reporting of suspicious activity in microcap securities and to achieve compliance with the BSA and the implementing regulations thereunder by the Department of the Treasury.

108. During the relevant period, Capellini was aware of numerous red flags of potentially suspicious activity in Customer A’s account, including, among other red flags alleged above, Customer A’s pattern of depositing physical certificates of shares of microcap securities, promptly liquidating them, and wiring out of the proceeds.

109. Capellini should have detected Customer A’s potentially suspicious activity, reasonably investigated the activity, and considered whether or not to report the activity by filing a SAR.

110. By virtue of the foregoing, Capellini violated FINRA Rules 3310(a) and 2010.

SECOND CAUSE OF ACTION
Providing False or Misleading Information to FINRA
in Response to FINRA Rule 8210 Requests
(Violation of FINRA Rules 8210 and 2010)

111. The Department of Enforcement realleges and incorporates by reference all preceding paragraphs.

112. FINRA Rule 8210(a)(1) provides that FINRA staff may “require a member, person associated with a member, or person subject to FINRA’s jurisdiction to provide information orally, in writing, or electronically ... with respect to any matter involved in [a FINRA] investigation ... [or] examination”

113. FINRA Rule 8210(c) provides that “[n]o member or person shall fail to provide information ... pursuant to this Rule.”

114. Providing false or misleading information to FINRA in response to a request for information issued pursuant to FINRA Rule 8210 is a violation of FINRA Rule 8210.

115. A violation of FINRA Rule 8210 is also a violation of FINRA Rule 2010.

116. In connection with its investigation of trading in RIVX, LAZX, and REMO, FINRA issued Rule 8210 requests to First Manhattan on November 19, 2019, December 4, 2019, and January 24, 2020, seeking information about Customer A’s trading in RIVX, LAZX, and REMO, respectively.

117. On November 26, 2019, December 9, 2019, and January 27, 2020, Capellini, on behalf of the firm, provided responses and supporting documents to FINRA in response to its requests concerning Customer A's trading in RIVX, LAZX, and REMO, respectively.

118. Each of the Rule 8210 requests sought documents and information concerning the due diligence inquiries made by the firm to determine whether the particular stock that was the subject of the request was freely tradeable.

119. Capellini's responses to FINRA's Rule 8210 requests were false or misleading. Specifically, Capellini attached documents that were not part of the firm's due diligence inquiries, but instead were documents that she obtained after receiving FINRA's 8210 requests.

120. In addition, Capellini produced to FINRA a Form S-1 registration statement for REMO that she knew was printed three days after FINRA issued its January 24, 2020 Rule 8210 request, and that she knew had been altered to remove the footer showing the date it was printed. Capellini did so to give FINRA the false and misleading impression that First Manhattan had received the Form S-1 from Attorney A as an attachment to his legal opinion letter and that the firm had included the Form S-1 in its due diligence files for REMO.

121. By virtue of the foregoing, Capellini violated FINRA Rules 8210 and 2010.

RELIEF REQUESTED

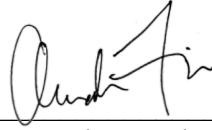
WHEREFORE, the Department of Enforcement respectfully requests that the Panel:

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

- C. order that Respondent bears such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330.

FINRA DEPARTMENT OF ENFORCEMENT

Date: June 1, 2022



Amanda E. Fein, Principal Counsel
Jeff Fauci, Director
FINRA Department of Enforcement
99 High St.
Boston, MA 02110
Phone: (617) 532-3424 (Fein)
Phone: (617) 532-3428 (Fauci)
Email: amanda.fein@finra.org
Email: jeff.fauci@finra.org

Savvas A. Foukas, Senior Litigation Counsel
FINRA Department of Enforcement
581 Main St., 7th Floor
Woodbridge, NJ 07095
Phone: (732) 596-2557
Email: savvas.foukas@finra.org