

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

Department of Enforcement,

Complainant,

v.

Sutter Securities Inc.,
CRD No. 30770, and

Keith Charles Moore,
CRD No. 5191450,

Respondents.

Disciplinary Proceeding
No. 2021071987902

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Between March 2020 and July 2021 (the relevant period), Respondent Sutter Securities Inc. (Sutter), acting through a former Sutter registered representative (Representative 1), recommended and effected 2,217 trades in two accounts belonging to a retired, 89-year-old customer (Customer 1). Those trades caused the customer to pay staggering and ruinous trading costs—in excess of \$2.9 million. This amount includes commissions representing nearly 35 percent of the firm’s total commission revenue during this period. Those trades also resulted in annualized cost-to-equity ratios of 46 and 38 percent—meaning the accounts needed to appreciate by these percentages just to break even. Collectively, Customer 1 suffered \$1.2 million in realized losses during the 17 months his accounts were open at Sutter.

2. During the period that Regulation Best Interest was in effect, between June 30, 2020 and July 2021, the trades that Representative 1 recommended were excessive, and resulted in annualized cost-to-equity ratios of 45 percent and 52 percent. During this period, Customer 1's accounts incurred approximately \$2.5 million in trading costs and more than \$1.8 million in realized losses.

3. By excessively trading Customer 1's accounts, Sutter willfully violated Reg BI and violated FINRA Rule 2010 [**First Cause of Action**].

4. In addition, throughout the life of Customer 1's account, Sutter and Respondent Keith Charles Moore—a part owner of the firm who served as its Chief Executive Officer and Representative 1's direct supervisor—failed to identify, or reasonably respond to red flags of potentially excessive trading in Customer 1's accounts, including: (i) extraordinarily large trading volumes and realized losses; (ii) cost-to-equity ratios over 20 percent; (iii) turnover rates greater than six; (iv) a pattern of frequent in-and-out trading; and (v) persistent use of margin. Sutter and Moore failed to take reasonable actions to identify, respond to, and address these and other red flags. As a result, Sutter and Moore violated FINRA Rules 3110(a) and 2010 [**Second Cause of Action**].

5. During the relevant period, Sutter failed to establish, maintain, and enforce a supervisory system, including written supervisory procedures (WSPs), reasonably designed to achieve compliance with the suitability requirements of FINRA Rule 2111 and, as of June 30, 2020, Reg BI's Care Obligation regarding excessive trading. Sutter's WSPs failed to provide reasonable guidance regarding how to detect, and respond to potentially excessive trading, and the firm in fact failed to implement reasonable supervisory practices to achieve these objectives. As a result, Sutter violated FINRA Rules 3110(a) and (b) and 2010 [**Third Cause of Action**].

6. From June 30, 2020, through July 2021, Sutter failed to establish, maintain, and enforce written policies and procedures reasonably designed to achieve compliance with Reg BI's Care Obligation regarding excessive trading. As a result, Sutter willfully violated Exchange Act Rule 15c-1 and FINRA Rule 2010 [**Fourth Cause of Action**].

7. During the relevant period, Sutter also failed to establish, maintain, and enforce a supervisory system, including WSPs, reasonably designed to supervise the electronic communications of its registered representatives. Sutter's WSPs failed to reasonably address email review supervision or provide substantive guidance on the review process. In addition, the firm's system to review email was unreasonable because it relied on fragmented, undocumented, *ad hoc* reviews by multiple individuals without standardization procedures, supervision tools, or designated oversight responsibility. As a result, Sutter violated FINRA Rules 3110(a) and (b) and 2010 [**Fifth Cause of Action**].

RESPONDENTS AND JURISDICTION

8. Sutter has been a FINRA member since 1992.

9. The firm has 34 registered representatives working out of three branch locations.

10. During the relevant period, Sutter provided brokerage services to retail customers, and generated about \$8.3 million in revenues from commissions charged to such customers. These commission charges comprised nearly 80 percent of the firm's revenue during the relevant period.

11. Because Sutter is currently a FINRA member, Sutter is subject to FINRA's jurisdiction.

12. Moore first registered with FINRA in 2007.

13. From April 2019 through February 2024, Moore was registered with FINRA through his association with Sutter as a General Securities Representative, General Securities Principal, Investment Banking Principal, Investment Banking Representative, and Operations Professional.

14. Throughout the relevant period, Moore indirectly owned part of Sutter, served as its CEO, and directly supervised Representative 1.

15. On February 16, 2024, an affiliate of Sutter filed a Uniform Termination Notice for Securities Industry Registration (Form U5) stating that Moore had voluntarily terminated his association with Sutter on that date.

16. After his resignation from Sutter, Moore retained his position as CEO of the company that owns Sutter.

17. Although Moore is no longer registered or associated with a FINRA member, he remains subject to FINRA's jurisdiction for purposes of this proceeding, pursuant to Article V, Section 4 of FINRA's By-laws, because (1) the Complaint was filed within two years after February 16, 2024, which was the effective date of termination of Moore's registration with Sutter, and (2) the Complaint charges him with misconduct committed while he was registered or associated with a FINRA member.

FACTS

18. In January 2020, Moore hired Representative 1 as a registered representative of Sutter.

19. At the time of his hiring, Representative 1 had a documented history of customer complaints regarding his trading in customer accounts.

20. From January 2020 through July 2021, Representative 1 maintained his registration through his association with Sutter and conducted business from a remote office location.

21. On July 15, 2022, FINRA issued an Acceptance, Waiver, and Consent (AWC) finding that Representative 1 refused to provide FINRA with information and documents requested during the investigation of the matters alleged in this Complaint, in violation of FINRA Rules 8210 and 2010. Representative 1 was barred in all capacities under the terms of the AWC.

A. Sutter, Acting through Representative 1, Excessively Traded Customer 1's Accounts.

22. In January 2020, Customer 1 opened two trust accounts at Sutter. Customer 1 was the trustee and primary beneficiary of the trusts. His children were secondary beneficiaries of the trusts.

23. At that time, Customer 1 was 89 years old and a retired executive of a semiconductor manufacturing company residing in California.

24. According to Customer 1's new account agreements, Customer 1 had an investment objective of "long-term growth" and a "moderate" risk tolerance. The new account agreements reflected that Customer 1 had a ten-year investment time horizon and low liquidity needs.

25. During the relevant period, Representative 1 recommended and effected 2,217 trades in Customer 1's accounts.

26. Representative 1 solicited all or nearly all of the trades in Customer 1's accounts.

27. Representative 1 typically charged Customer 1 a two percent commission on each purchase or sale.

28. When making recommendations (or when exercising discretion) regarding what securities to buy and sell, how frequently to buy and sell securities, and what commissions to charge in Customer 1's accounts, Representative 1 disregarded trading costs, the effects of the cumulative trading costs resulting from his commissions, and how commissions were affecting the value of Customer 1's accounts.

29. The cost-to-equity ratio measures the amount an account has to appreciate just to cover commissions and other expenses. In other words, it is the break-even point where a customer may begin to see a return.

30. Representative 1's trading resulted in annualized cost-to-equity ratios of 46 percent and 38 percent and turnover rates of 16 and 11 in Customer 1's accounts and generated trading costs totaling \$2,945,098.53, including \$2,863,854.32 in commissions. The trading caused realized losses of \$1,280,358.16.

31. During the period after Reg BI's effective date, the trading activity resulted in annualized cost-to-equity ratios of 45 percent and 52 percent and turnover rates of 16 and 15 and generated trading costs totaling \$2,502,050.85, including \$2,421,150.10 in commissions. The trading caused realized losses of \$1,810,314.90.

32. Customer 1's accounts exhibited frequent in-and-out trading.

33. During the relevant period, 22 percent of the trading volume in Customer 1's accounts consisted of completed round-trip transactions (defined as the purchase and subsequent sale of identical quantities of securities). The accounts included 477 completed stock

transactions, with 87 percent concluded within just 30 days, 98 percent within 60 days, and 100 percent within 90 days.

34. Representative 1 routinely recommended that Customer 1 buy equities positions, which he often then quickly sold, even when the price of the stocks had changed only minimally. Because of the commissions Representative 1 charged—generally, two percent on buy and sale transactions—Customer 1 routinely incurred losses on such trades.

35. On June 11, 2021, for example, Representative 1 purchased in one of Customer 1's accounts 45,000 shares of a commodity-indexed trust at \$15.98 per share, only to sell that position seven days later on June 18, 2021, at \$15.63 per share. This round-trip transaction resulted in a loss of \$44,000, but generated \$28,400 in commissions.

36. Similarly, on May 8, 2020, Representative 1 purchased in one of Customer 1's accounts 920 shares of a technology company at \$309.33 per share, only to sell that position ten days later, on May 18, 2020, at \$313.56 per share. This round-trip transaction resulted in a loss of \$4,600, but generated \$8,500 in commissions. Two weeks later, on June 1, 2020, Representative 1 purchased again in Customer 1's account shares in the technology company at \$322.04 per share.

37. And on May 25, 2021, Representative 1 purchased in one of Customer 1's accounts 4,250 shares of an energy company at \$32.98 per share, only to sell that position seven days later, on June 1, 2021, at \$32.24 per share. This round-trip transaction resulted in a loss of \$8,900, but generated \$5,500 in commissions.

38. The average weighted holding period for securities in Customer 1's accounts was 17.3 days—a timeframe inconsistent with the stated long-term growth objective and indicative of short-term speculative trading rather than investment.

39. Customer 1's accounts also exhibited a pattern of excessive margin utilization.

40. By November 2020, Customer 1 had accumulated a \$7.66 million margin debit balance.

41. Ultimately, over 90 percent of all trading in Customer 1's accounts involved margin, which amplified his risk exposure and indicated high-risk leveraged trading—activity inconsistent with Customer 1's stated “moderate” risk tolerance and substantial liquid net worth.

42. The trading that Representative 1 recommended and effected in Customer 1's accounts was excessive, quantitatively unsuitable, and not in Customer 1's best interest, as evidenced by the high cost-to-equity ratios, high turnover rates, high total costs, frequent in-and-out trading, excessive use of margin, and large losses.

43. Representative 1's recommendations constituted a series of recommended transactions for which Representative 1 did not have a reasonable basis to believe was not excessive and was in Customer 1's best interest, in light of the associated substantial commissions and costs and Customer 1's investment profile.

44. In many instances, Representative 1 did not consult Customer 1 before placing trades in Customer 1's accounts.

45. Customer 1 was a retail customer whose investment goals were not served by the excessive trading that Representative 1 recommended and effected in his accounts at Sutter.

46. Sutter gave Representative 1 actual authority to solicit customers, make recommendations to customers, and engage in the trading at issue in Customer 1's accounts. Sutter further ratified Representative 1's actions by establishing Sutter accounts for Customer 1 and entering the trades and charges in the firm's books and records. In addition, Sutter was the

direct beneficiary of the commissions, margin interest, and other charges that Customer 1 incurred in his accounts through Representative 1's recommended trading.

47. Sutter is responsible for the excessive trading that Representative 1 recommended and effected in Customer 1's accounts during the relevant period.

B. Sutter and Moore Ignored Red Flags of Potentially Excessive Trading in Customer 1's Accounts.

48. During the relevant period, Sutter's WSPs assigned responsibility "for proper supervision" of the firm to the Chief Compliance Officer and three designated principals, one of whom was Moore.

49. During the relevant period, Moore was the sole designated principal performing supervisory functions related to the firm's retail business.

50. Moore directly supervised Representative 1 and was the designated principal responsible for supervising all trading activity in Representative 1's customer accounts, including those belonging to Customer 1.

51. Throughout the relevant period, Sutter and Moore failed to identify, or reasonably respond to multiple red flags that Representative 1 was engaged in trading in Customer 1's accounts that was excessive, unsuitable, and contrary to Customer 1's best interests.

52. As alleged above, these red flags included (i) high trading volumes; (ii) substantial financial losses; (iii) cost-to-equity ratios exceeding 20 percent; (iv) turnover rates greater than six; (v) frequent in-and-out trading; and (vi) persistent use of margin.

53. It was also a red flag that trading patterns in Customer 1's accounts deviated substantially from the investment strategy that Representative 1 was purportedly implementing in Customer 1's accounts.

54. Representative 1 told Moore that he was executing a replication strategy in Customer 1's accounts—specifically mirroring the trades of a third-party asset manager.

55. This asset manager's investment approach was characterized by maintaining balanced positions across approximately 33 listed companies (the portfolio companies) with minimal portfolio turnover and infrequent trading activity.

56. Although Representative 1 did recommend and execute trades involving the portfolio companies in Customer 1's accounts, the trading pattern he recommended and effected did not resemble the asset manager's approach.

57. Instead of replicating the asset manager's low-turnover, minimal-trades approach, Representative 1 engaged in frequent, high velocity trading in Customer 1's accounts.

58. For example, during the relevant period, the asset manager sold positions in 12 portfolio companies and acquired positions in 10 new ones—executing a limited number of trades. In contrast, during the same period, Customer 1's accounts had 1,717 transactions involving portfolio companies, including 903 sales and 814 purchases.

59. As a second example, the asset manager rarely repurchased positions in portfolio companies after divestiture. In contrast, for example, while the asset manager sold its interest in a particular portfolio company, Customer 1's accounts traded in-and-out of the same portfolio company, with 15 sales and 13 purchases in a six-month period between January 21 and July 8, 2021.

60. It was a further red flag that Representative 1 was systematically marking transactions in Customer 1's accounts as "unsolicited" at the same time that he was purportedly implementing an investment strategy in Customer 1's accounts.

61. For example, Representative 1 marked over 97 percent of Customer 1's orders in the order entry system as "unsolicited" while still charging Customer 1 substantial commission costs.

62. Moore knew or should have known of the trading activity conducted in Customer 1's accounts through his claimed review of the daily trade blotter.

63. Moore knew or should have known of the substantial commissions that the trading activity generated each month through his claimed review of the daily trade blotter and the monthly commission statements.

64. However, Sutter and Moore failed to take reasonable steps to identify, respond to, and address the red flags of trading effected in Customer 1's accounts by Representative 1 that was potentially excessive, unsuitable, and contrary to Customer 1's best interests.

C. Sutter Failed to Establish, Maintain, and Enforce a Supervisory System, including WSPs, Reasonably Designed to Identify and Address Potential Excessive Trading.

65. During the relevant period, Sutter failed to establish, maintain, and enforce a supervisory system, including WSPs, that was reasonably designed to achieve compliance with the suitability requirements of FINRA Rule 2111 and, as of June 30, 2020, Reg BI's Care Obligation regarding excessive trading.

66. The firm's WSPs were not reasonably designed to identify and address excessive trading in customer accounts.

67. Although the WSPs listed the elements of excessive trading and stated it is based on the "level of trading activity" in customer accounts, they failed to provide guidance for identifying such activity.

68. For example, the WSPs failed to identify any metrics for evaluating excessive trading, including key indicators such as high cost-to-equity ratios, high turnover rates, or in-and-out trading patterns.

69. Nor did the WSPs require designated principals to incorporate these basic metrics, or any quantitative measures, into their supervisory reviews.

70. The WSPs directed designated principals to review monthly account statements and commission reports for excessive trading, but they failed to describe what the designated principals should look for during their reviews or how to identify problematic trading patterns.

71. While the WSPs also directed designated principals to review the daily trade blotter for “any unusually high trading activity,” they failed to define what constituted “unusually high” activity or provide any guidance on how to measure and assess trading activity levels.

72. The firm’s WSPs failed to require designated principals to perform any quantitative analysis or apply objective standards to determine whether trading activity was excessive relative to customer investment objectives and financial situations.

73. In practice, Sutter did not use any metrics or quantitative assessments to identify potential excessive trading.

74. Moreover, Sutter’s reliance on manual review of the daily trade blotter prevented designated principals from identifying patterns of trading over time.

75. Additionally, the firm failed to use exception reports or automated alerts to identify potential excessive trading despite the availability of such tools through Sutter’s clear-through partner.

76. The firm also failed to implement alternative surveillance mechanisms to compare trading activity over time, assess trading velocity in customer accounts, or otherwise identify trends or patterns indicative of excessive trading.

77. The firm further failed to implement any system to ensure that designated principals actually reviewed monthly account statements, commission reports, and the daily trade blotter for excessive trading as required by the WSPs.

78. In fact, Moore—the only designated principal supervising retail business—did not review monthly account statements for any reason and did not review the monthly commission statements for indicators of excessive trading.

79. Also, there is no written evidence, as required by the firm’s WSPs, he conducted the daily trade blotter reviews.

80. The WSPs provided no guidance for responding to potential excessive trading, failing to describe any investigative steps, remedial actions, or escalation procedures that designated principals should follow after identifying potential excessive trading.

81. Sutter failed to implement any system to respond to potential excessive trading.

82. In June 2020, Sutter revised its WSPs to include a new section related to Reg BI.

83. The new Reg BI section contained no actual policies or procedures for complying with Reg BI as it relates to excessive trading and did not describe the steps firm principals or representatives should take to prevent, detect, or promptly correct violations of Reg BI or to otherwise achieve compliance with Reg BI.

D. Sutter Failed to Reasonably Supervise Electronic Communications.

84. During the relevant period, Sutter's supervisory system, including WSPs, for email review was not reasonable.

85. The WSPs stated that "the Compliance Department conducts a post-review sample of such e-mail correspondence [for] compliance with these policies and procedures. Evidence of the review of e-mail correspondence will be maintained in the Compliance Department."

86. The WSPs further stated that "[a]s part of the Designated Principal's supervisory responsibility, the designated principal will adhere to the following procedures regarding the supervision of registered personnel's email." The WSPs, however, failed to provide any actual procedures about email supervision.

87. The WSPs contained no operational guidance for implementing email review, including methodologies for identifying and reviewing emails subject to supervision, designation of personnel responsible for conducting review, and frequency and scope of required reviews.

88. The WSPs also did not establish criteria for identifying problematic communications, provided no guidance about the issues or red flags that should be considered, and provided no protocols for escalating problematic communications when identified.

89. In practice, Sutter's email supervision was fragmented and lacked clear accountability, with multiple individuals conducting reviews without any designated authority having ultimate responsibility for oversight or consistency of the review process.

90. Due to the absence of procedural guidance, the firm's email review process was inconsistent and arbitrary, with each individual reviewer developing and implementing their own *ad hoc* search methodology without standardization or quality control.

91. The firm employed no email supervision tools or methodologies such as keyword search lists or random sampling.

92. Sutter maintained virtually no documentation of its supervisory review of electronic communications.

93. Despite having access to functionality within its third-party email archiving system that would allow reviewers to mark communications as reviewed, the firm did not consistently use this feature.

94. The firm also failed to maintain any records of the search parameters used by reviewers and therefore could not assess the scope and adequacy of the review process.

FIRST CAUSE OF ACTION

Excessive Trading

(Willful Violations of Exchange Act Rule 15/-1 Regulation Best Interest and Violation of FINRA Rule 2010)

(Respondent Sutter)

95. The Department of Enforcement re-alleges and incorporates by reference each of the preceding paragraphs.

96. Since June 30, 2020, broker-dealers and their associated persons have been required to comply with Reg BI under the Securities Exchange Act of 1934. Rule 15/-1(a)(1) of Reg BI requires a broker, dealer, or a natural person who is associated with a broker or dealer, when making a recommendation of any securities transaction or investment strategy involving securities (including account recommendations) to a retail customer, to act in the best interest of the retail customer at the time the recommendation is made, without placing the financial or other interest of the broker, dealer, or associated person making the recommendation ahead of the retail customer.

97. Reg BI defines a retail customer as a natural person, or the legal representative of such natural person, who receives a recommendation of any securities transaction or

investment strategy involving securities from a broker, dealer, or a natural person who is an associated person of a broker or dealer; and uses the recommendation primarily for personal, family, or household purposes.

98. Reg BI's Care Obligation, set forth at Exchange Act Rule 15c-1(a)(2)(ii), requires broker-dealers and their associated persons to exercise reasonable diligence, care, and skill to, among other things, have a reasonable basis to believe that a series of recommended transactions, even if in a retail customer's best interest when viewed in isolation, is not excessive and is in the retail customer's best interest when taken together in light of the retail customer's investment profile, and does not place the financial or other interest of the broker, dealer, or such natural person making the series of recommendations ahead of the interest of the retail customer. Failure to comply with the Care Obligation constitutes a violation of Reg BI's General Obligation.

99. Violations of Reg BI are also violations of FINRA Rule 2010.

100. Following the June 30, 2020 effective date of Reg BI, Sutter, acting through Representative 1, recommended a series of securities transactions to Customer 1.

101. Customer 1 was a retail customer—a natural person who used Sutter's recommendations primarily for personal, family, or household purposes.

102. Sutter, acting through Representative 1, failed to act in the best interests of Customer 1 at the time the recommendations were made. The recommended series of securities transactions were excessive and not in the best interest of Customer 1 and placed the financial or other interests of Sutter and Representative 1 ahead of Customer 1's interests.

103. In addition, Sutter, acting through Representative 1, failed to exercise reasonable diligence, care, and skill to have a reasonable basis to believe that the series of

securities transactions recommended to Customer 1 were not excessive; were in Customer 1's best interest taken in light of his investment profile and the potential risks, rewards, and costs associated with the recommendations; and did not place Sutter's or Representative 1's financial or other interests ahead of Customer 1's interests.

104. As a result of the foregoing, Sutter willfully violated Exchange Act Rule 15c-1(a)(1) and violated FINRA Rule 2010.

SECOND CAUSE OF ACTION
Failure to Supervise
(Violation of FINRA Rules 3110 and 2010)
(Respondents Sutter and Moore)

105. The Department of Enforcement re-alleges and incorporates by reference each of the preceding paragraphs.

106. FINRA Rule 3110(a) requires member firms to "establish and maintain a system to supervise the activities of each associated person that is reasonably designed to achieve compliance with applicable securities laws, regulations, and FINRA rules."

107. The duty to supervise under FINRA Rule 3110(a) also includes the responsibility to reasonably investigate red flags that suggest misconduct may be occurring and to act upon the results of such investigation.

108. FINRA Rule 0140 provides that persons associated with a member shall have the same duties and obligations as a member under FINRA Rules.

109. Violations of FINRA Rule 3110 also are violations of FINRA Rule 2010.

110. During the relevant period, Sutter and Moore had an obligation to identify and reasonably investigate and follow up on red flags indicating that Representative 1 was engaged in potentially excessive and unsuitable trading in violation of FINRA Rules and Reg BI.

111. Sutter and Moore failed to identify, or, if identified, to reasonably investigate, multiple red flags indicating that Representative 1 was engaged in trading in Customer 1's accounts that was potentially excessive, unsuitable, and/or in violation of Reg BI, including:

- a. The accounts exhibited large trading volumes;
- b. The accounts experienced substantial losses;
- c. The cost-to-equity ratios in the accounts were significantly greater than 20 percent;
- d. The turnover rates in the accounts were significantly greater than six;
- e. The accounts exhibited frequent in-and-out trading;
- f. The accounts exhibited frequent and excessive use of margin;
- g. The actual trading in the accounts deviated substantially from the investment strategy purportedly being used in them;
- h. The trading in the accounts was inconsistent with Customer 1's investment profile; and
- i. The systematic misclassification of transactions as "unsolicited" in the accounts at the same time that the accounts were purportedly following a recommended investment strategy.

112. Sutter and Moore failed to take reasonable actions to identify, investigate, and address red flags of potentially excessive trading to achieve compliance with the securities laws and regulations and with FINRA rules.

113. As a result of the foregoing, Sutter and Moore violated FINRA Rules 3110(a) and 2010.

THIRD CAUSE OF ACTION
Unreasonable Supervisory System Related to Excessive Trading
(Violation of FINRA Rules 3110 and 2010)
(Respondent Sutter)

114. The Department of Enforcement re-alleges and incorporates by reference each of the preceding paragraphs.

115. FINRA Rule 3110(a) requires member firms to “establish and maintain a system to supervise the activities of each associated person that is reasonably designed to achieve compliance with applicable securities laws, regulations, and FINRA rules.”

116. FINRA Rule 3110(b) requires a member firm to “establish, maintain, and enforce written procedures to supervise the types of business in which it engages and the activities of its associated persons that are reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable FINRA rules.”

117. Violations of FINRA Rule 3110 are also violations of FINRA Rule 2010.

118. As alleged above, during the relevant period, Sutter failed to have a supervisory system, including WSPs, that was reasonably designed to achieve compliance with the suitability requirements of FINRA Rule 2111 and, as of June 30, 2020, Reg BI’s Care Obligation, regarding excessive trading.

119. Sutter’s WSPs failed to reasonably address how the firm was to detect, prevent, and respond to potentially excessive trading. The WSPs failed to provide guidance for identifying such activity and did not identify any metrics for evaluating potential excessive trading or require designated principals to employ any metrics in their supervisory review.

120. Beyond the WSP failures, the firm’s supervisory system did not use metrics, exception reports, or surveillance tools to identify potential excessive trading, failed to

implement any system ensuring required suitability reviews were conducted, and provided no procedures or system for responding to potential excessive trading once identified.

121. As a result of the foregoing, Sutter violated FINRA Rule 3110(a) and (b) and FINRA Rule 2010.

FOURTH CAUSE OF ACTION

Unreasonable Policies and Procedures Related to Excessive Trading
(Willful Violation of Exchange Act Rule 15c-1 Regulation Best Interest and FINRA Rule 2010)
(Respondent Sutter)

122. The Department of Enforcement re-alleges and incorporates by reference each of the preceding paragraphs.

123. Reg BI's Compliance Obligation, set forth at Exchange Act Rule 15c-1(a)(2)(iv), requires broker-dealers to establish, maintain, and enforce written policies and procedures reasonably designed to achieve compliance with Reg BI, including the Care Obligation.

124. Reg BI's Adopting Release provides that broker-dealers should consider the nature of the firm's operations and how to design such policies and procedures to prevent violations from occurring, detect violations that have occurred, and to correct promptly any violations that have occurred.

125. A violation of Reg BI is also a violation of FINRA Rule 2010.

126. As alleged above, from June 30, 2020, through July 2021, Sutter had no written policies or procedures for complying with Reg BI as it relates to excessive trading and did not describe the steps firm principals or representatives should take to prevent, detect, or promptly correct violations of Reg BI's Care Obligation.

127. As a result of the foregoing, Sutter failed to establish, maintain, and enforce written policies and procedures reasonably designed to achieve compliance with Reg BI's Care

Obligation regarding excessive trading, in willful violation of Exchange Act Rule 15c-1 and FINRA Rule 2010.

FIFTH CAUSE OF ACTION

Unreasonable Supervisory System Related to Email Supervision
(Violation of FINRA Rules 3110 and 2010)
(Respondent Sutter)

128. The Department of Enforcement re-alleges and incorporates by reference each of the preceding paragraphs.

129. FINRA Rule 3110(a) requires member firms to “establish and maintain a system to supervise the activities of each associated person that is reasonably designed to achieve compliance with applicable securities laws, regulations, and FINRA rules.”

130. FINRA Rule 3110(b)(4) requires member firms to establish, maintain, and enforce procedures for the review by a registered principal of “incoming and outgoing written (including electronic) correspondence and internal communications” relating to its securities business.

131. As alleged above, during the relevant period, Sutter failed to have a supervisory system, including WSPs, that was reasonably designed to achieve compliance with FINRA Rule 3110(b)(4).

132. Sutter’s WSPs did not reasonably address email review supervision or provide substantive guidance on the review process. Specifically, the procedures failed to establish the methodology for conducting reviews, designate personnel responsible for the reviews, specify required review frequency, identify relevant red flags or concerning content that reviewers should monitor, or create escalation protocols for addressing problematic communications.

133. As a consequence, Sutter’s email supervision was fragmented and lacked clear accountability, with multiple individuals conducting reviews without any designated authority

having ultimate responsibility for oversight or consistency of the review process. Sutter maintained virtually no documentation of its supervisory review of electronic communications.

134. As a result of the foregoing, Sutter violated FINRA Rule 3110(a) and (b) and FINRA Rule 2010.

RELIEF REQUESTED

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

- A. make findings of fact and conclusions of law that Respondents committed the violations charged and alleged herein;
- B. order that one or more of the sanctions provided under FINRA Rule 8310(a) be imposed, including that Respondents be required to disgorge fully any and all ill-gotten gains and/or make full and complete restitution, together with interest;
- C. order that Respondents bear such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330; and
- D. make specific findings that Respondent Sutter willfully violated Exchange Act Rule 15c-1(a)(1).

FINRA DEPARTMENT OF ENFORCEMENT

Date: January 20, 2026



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