

FINANCIAL INDUSTRY REGULATORY AUTHORITY
OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

John Thomas Financial, Inc. (CRD No. 40982), Anastasios "Tommy" P. Belesis (CRD No. 2707354), Ronald Vincent Cantalupo (CRD No. 3137208), Joseph Louis Castellano (CRD No. 1158479), Michele Ann Misiti (CRD No. 1931272), John Stephen Ward (CRD No. 4118968)

Respondents.

DISCIPLINARY PROCEEDING
No. 20120334673-01

EXPEDITED TREATMENT REQUESTED

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. This case involves, among other things, respondents' fraud, intimidation of registered representatives ("RRs"), improper trading ahead of customer equity orders, breach of the duty of best execution, failure to follow customer instructions, misrepresentations to RR's, customers and FINRA, falsification of and failure to maintain order tickets, and failure to reasonably supervise. It is brought against John Thomas Financial ("JTF") and the following firm personnel: Chief Executive Officer ("CEO") Anastasios "Tommy" P. Belesis ("Belesis"), Branch Office Manager ("BOM") Michele Ann Misiti ("Misiti"), trader John Stephen Ward ("Ward"), Chief Compliance Officer ("CCO") Joseph Louis Castellano ("Castellano"), and Regional Managing Director Ronald Vincent Cantalupo ("Cantalupo").

2. On February 23, 2012, JTF reaped proceeds of over \$1 million by selling 855,000 shares of America West Resources, Inc. ("AWSR") common stock from its proprietary trading account when the price of the stock temporarily spiked higher by over 600%.

3. While JTF quickly sold its own shares during the price spike, the firm received at least 15 customer orders to sell over 1 million shares of the stock. However, JTF only entered one of these orders for execution that day and that occurred before Belesis intervened to stop the sale of the customer shares.

4. For many of the customers whose orders were not entered, JTF executed orders on later dates at prices that were grossly inferior to those obtained by the firm. Other customers who attempted to sell their AWSR shares on February 23 did not sell at all as the price of AWSR stock declined over the coming days and months. Since AWSR filed for bankruptcy earlier this year, those customers' investments are now virtually worthless.

5. JTF, through certain of the Respondents and the firm's RRs, falsely told customers that it was unable to sell their AWSR shares on February 23 for various reasons.

- a. JTF claimed that it could not sell customer shares because the shares were statutorily restricted, i.e., neither registered under the Securities Act of 1933 (the "1933 Act") nor exempt from registration. However, the customer shares *were* freely tradable under the 1933 Act.
- b. JTF claimed that it could not sell the customer shares because there was insufficient volume to sell the shares on that day. But almost 8 million shares of AWSR were traded on February 23 -- ample volume to fill the orders to sell 1 million shares of customer stock.

c. JTF claimed that it could not sell the customer shares because the firm's trading systems, which were provided by JTF's clearing firm (the "Clearing Firm"), erroneously indicated the shares were restricted when they were not. But that was merely a lie of convenience. Although some customers held accounts with an internal Clearing Firm restriction that indicated they held both restricted and freely tradable shares in their accounts, that restriction could be quickly and easily removed, and the unrestricted shares sold, by contacting the Clearing Firm. JTF took insufficient steps to remove the account restriction so that it could enter customer orders while the markets remained open. Instead, JTF focused on selling its own AWSR shares. Further, some of the customers' shares were not subject to the internal restriction and could have been immediately sold without contacting the Clearing Firm. Tellingly, no other correspondent of the Clearing Firm reported a problem selling AWSR or any other stock that day.

6. To conceal that the firm received the orders during the February 23 price spike but failed to execute them on that day, certain of the Respondents conveniently "lost" at least 14 order tickets. Six of these lost tickets were replaced the next day with tickets that had been falsified to indicate the orders were received on February 24, 2012.

7. Respondents then compounded their fraudulent acts by making misrepresentations to FINRA concerning Belesis' role in the misconduct, including his unequivocal threat to RRs who attempted to place or check on customer orders to sell AWSR. Notably, this was not the first time that Belesis attempted to prevent the sale of AWSR stock by customers (and thus disregard outstanding customers' instructions) so that its price would not drop. In June of 2011, he

attempted to intimidate a JTF RR who was in the process of selling AWSR stock for several of the firm's customers.

8. In fact, these are just two examples of a long series of incidents where JTF, through Belesis, Castellano and Cantalupo, improperly threatened, harassed, coerced and intimidated JTF RRs who have questioned Belesis' instructions, disagreed with his business practices or attempted to leave the firm. Indeed, through those respondents, JTF has assaulted RRs (including threatened to have them "run over"), routinely berated them and threatened to ruin their financial careers by improperly marking their Uniform Termination Notices for Securities Industry Registration forms ("Form U5").

9. By virtue of the foregoing misconduct, the Respondents violated the following: (a) FINRA Rule 5320 (trading ahead of customer orders); (b) NASD Rule 2320 (best execution); (c) FINRA Rule 2010 (failure to follow customer instructions, misrepresentations or omissions to customers and RRs and the falsification of order tickets); (d) FINRA Rule 4511 by causing a violation of Section 17a of the Exchange Act of 1934 (the "Exchange Act") and Rules 17a-3 and 17a-4 promulgated thereunder (books and records); (e) NASD Rule 3010 (supervision); (f) FINRA Rule 8210 (making false and misleading statements to FINRA); (g) Sections 10(b) of the Exchange Act, Rule 10b-5 promulgated thereunder and FINRA Rule 2020 (securities fraud); and/or (h) FINRA Rule 5240 (intimidation).

RESPONDENTS AND JURISDICTION

10. JTF was founded in 2007. It has been registered with FINRA since that time. In February of 2012, the firm employed over 125 RRs.

11. Belesis is the founder of JTF and since January of 2007, he has been its CEO. In addition, he either directly or indirectly owns over 75% of the firm. He obtained his Series 7

and 63 licenses in 1996, his Series 24 license in 1998 and his Series 9 and 10 licenses in 2001. He has been employed by several different FINRA member firms from 1996 through the present, and is therefore subject to FINRA's jurisdiction.

12. Since approximately February of 2009, Castellano has been JTF's CCO. Castellano owns less than 5% of JTF. He obtained his Series 7 license in 1995, his Series 63 license in 1996, his Series 55 license in 2000 and his Series 24 license in 2006. He has been employed by several different FINRA member firms from 1995 through the present, and is therefore subject to FINRA's jurisdiction.

13. Since approximately February of 2008, Cantalupo has been JTF's Regional Managing Director. He obtained his Series 7 and 63 licenses in 1999 and his Series 24 license in 2005. He has been employed by several different FINRA member firms from 1998 through the present, and is therefore subject to FINRA's jurisdiction.

14. Since November of 2011, Misiti has been JTF's BOM. From March 2009 through November 2011, Misiti was an Assistant Branch Office Manager with the firm. Misiti owns less than 5% of JTF. She obtained her Series 7 and 63 licenses in 1993, her Series 24 license in 2002, her Series 65 license in 2008 and her Series 4 license in 2010. She has been employed by several different FINRA member firms from 1991 through the present, and is therefore subject to FINRA's jurisdiction.

15. Since approximately February 9, 2012, Ward has been JTF's trader. He obtained his Series 7 license in 2003, his Series 63 license in 2004 and his Series 55 license in 2008. He has been employed by several different FINRA member firms during most of the period 2000 through the present, and is therefore subject to FINRA's jurisdiction.

FACTS

JTF's Relationship with AWSR

16. Immediately prior to the relevant events herein, AWSR produced and sold coal to U.S. utility companies for the purposes of, among other things, heating water and running steam turbine engines in order to produce electricity. At such time, AWSR was thinly traded on the OTC Bulletin Board. On or around February 1, 2013, AWSR filed a voluntary petition for bankruptcy relief under Chapter 11 of the United States Bankruptcy Code.

17. Between 2008 and 2011, JTF served as the investment banker for certain private equity offerings that were conducted by AWSR and also acted as the exclusive placement agent for the company in connection with a bridge loan financing that it conducted. In connection with these financing transactions, at least \$20 million was raised for AWSR from JTF's retail customers.

18. Also in connection with these transactions, participating JTF customers received: (a) AWSR stock that was unregistered under the 1933 Act, and/or (b) convertible promissory notes, certain of which were converted into such stock.

19. An exemption from the registration requirements of the 1933 Act must exist in order to sell unregistered stock in the public markets. Rule 144, promulgated under that act, provides a safe harbor for the resale of restricted and control securities by parties other than the issuer of the securities provided that a number of conditions are satisfied. In order to take advantage of this safe harbor, Subsection (d) of Rule 144 requires, among other things, a six-month holding period for restricted securities issued by an Exchange Act reporting company that has been a reporting company for at least 90 days and is current in its Exchange Act reports. Compliance with Rule 144 is typically effectuated through the filing of certain paperwork with

the relevant clearing and/or transfer agents, which demonstrates that the requirements of the rule have been satisfied.

20. At various times prior to February 23, 2012, including June of 2011, certain of JTF's customers submitted the paperwork necessary to demonstrate compliance with the safe harbor provided by Rule 144 with respect to certain of their AWSR shares. Those shares therefore became freely tradable.

21. As compensation for conducting certain of the aforementioned financings, JTF and a number of its RRs and other associated individuals received AWSR warrants. By January of 2009, JTF alone held 14,133,732 AWSR warrants.

22. Pursuant to an agreement entered into between JTF and AWSR, dated August 4, 2010, the 14,133,732 AWSR warrants held by JTF were exercised and converted into a like number of freely tradable AWSR shares. At all relevant times, these shares were held by JTF in its proprietary trading account (the "Prop Account"). Belesis has been the broker of record for the Prop Account at such times, and he is the only person who has buy or sell authority with respect thereto.

23. In October 2010, AWSR's Board of Directors authorized a reverse split of the company's common stock at a ratio of one for every 12 outstanding shares. As a result, JTF's proprietary position in the stock was reduced to 1,177,811 shares.

24. On September 1, 2011, JTF sold 7,100 shares of its proprietarily held AWSR shares for 86 cents per share. This left 1,170,811 AWSR shares in the Prop Account that were freely tradable under the 1933 Act.

The Application and Removal of the "REST" Restriction by the Clearing Firm

25. The Clearing Firm applies an internal "REST" restriction to a security position that is contained in a customer account where any part of the position is statutorily restricted. This is done in order to prevent the statutorily restricted shares from being mistakenly sold. Thus, if a customer account holds both freely tradable and statutorily restricted shares in a security, none of the shares can be sold until the REST restriction is removed. The REST restriction is not applied when a position consists solely of freely tradable shares.

26. The REST restriction will be temporarily removed from a security position if JTF contacts the Clearing Firm to sell a customer's freely tradable shares of the position. Once requested to remove the restriction, the Clearing Firm can almost instantaneously do so.

Belesis Attempts to Prevent a JTF RR from Selling AWSR Customer Shares in June of 2011

27. On or about June 17, 2011, AB, who was a JTF RR, sold freely tradable AWSR shares for two of the firm's customers. After these sales, Belesis called AB and, in a threatening manner, instructed him to stop selling the shares since it would "crush [the price of] this thing." AB advised Belesis during the call that he had to sell additional shares because he had customer instructions to do so. AB thereafter sold the shares.

The February 23, 2012 Spike in the Price of AWSR's Stock

28. Beginning prior to 2:32 p.m. on February 23, 2012, Awesome Penny Stocks (awesomepennystocks.com) – a website that issues monthly recommendations concerning low-priced stocks– notified its subscribers via e-mail that it would soon be issuing its March 1, 2012 recommendation. The e-mail sent by this web site described the recommended company as, *inter alia*, being in the coal-mining industry. Further, it appeared to "accidentally" identify the

pick as AWSR. A surge of activity on various Internet message boards followed and the price and trading volume of AWSR stock began to dramatically rise.

29. As shown in the chart below, during the morning and early afternoon of February 23, 2012, AWSR stock did not trade. Rather, trading in the stock began at approximately 2:32 p.m. at approximately 28 cents per share. Shortly thereafter, at approximately 2:34 p.m., the price rose to as high as 45 cents per share. At approximately 3:04 p.m., the price reached a peak of \$1.80 per share. AWSR closed the day at \$1.29 per share.



30. The total trading volume of AWSR on February 23, 2012 was 7,861,300 shares. For the month prior to February 23, 2012, the average daily volume for the stock was under 12,000 shares.

JTF's Proprietary Trading in AWSR Stock on February 23, 2012

31. At the opening of the markets on February 23, 2012, JTF held 1,170,811 freely tradable AWSR shares in the Prop Account. That afternoon, while the price of AWSR stock was approximately at its highest point of the day, Belesis instructed Misiti to sell as much of the position as possible. This was an extremely unusual request since, as BOM, Misiti almost never purchased or sold stock for JTF or its customers.

32. Upon receiving Belesis' instruction, Misiti immediately called the Clearing Firm and during a one hour and 16 minute call that lasted from approximately 3:05 to 4:21 p.m., gave that firm 18 sell orders ranging from 10,000 to 500,000 shares each. The first sell order for 50,000 shares was entered at approximately 3:08 p.m. and filled soon thereafter at an average price of \$1.64 per share. The last of the orders was placed at approximately 4:06 p.m. in after-hours-trading and was also filled soon thereafter.

33. By the close of after-hours-trading on that day, JTF sold a total of 855,000 AWSR shares at an average price of \$1.26 per share. This accounted for approximately 11% of the total trading volume for AWSR stock on February 23, 2012. As a result, JTF reaped proceeds of \$1,080,135.

Customer Trading in AWSR Stock on February 23, 2012

34. At the opening of the markets on February 23, 2012, JTF's customers held over 21 million AWSR shares in their accounts. Of these shares, approximately 3.71 million were freely tradable and approximately 18.17 million were statutorily restricted.

35. Approximately 1.9 million of the freely tradable shares were subject to the REST restriction because they were held in an account that also held statutorily restricted AWSR shares. The other approximately 1.8 million freely tradable shares, which belonged to 21 customers, were not subject to the REST restriction because they were not held in an account that also held statutorily restricted shares.

36. Beginning at approximately 2:34 p.m. on February 23, 2012, JTF's RRs were talking about the spike in the market price of AWSR stock and immediately sought to contact their customers. They soon thereafter received orders from at least 15 of the firm's customers to sell their AWSR stock, which was freely tradable under Rule 144.

37. A few minutes later, two customer orders were executed. The first, a limit order to sell 8,333 shares at \$1.05 per share which was one of the aforementioned 15 orders, was entered by AB at approximately 2:48 p.m. This order was executed in two fills, both at approximately 2:50 p.m. The second, a limit order to sell 16,667 shares at \$1.19 per share, was executed at approximately 2:51 p.m. The order for this sale was entered by Ward's predecessor on November 28, 2011.

38. In addition to the freely tradable AWSR shares that were sold for these two customers, their accounts also contained statutorily restricted AWSR shares. The REST restriction was therefore applied by the Clearing Firm to the AWSR positions in these accounts. However, the restriction was removed from the positions by the Clearing Firm during August and October of 2011, respectively, and inadvertently never reapplied.

39. As set forth above, at about 3:08 p.m., Misiti telephonically submitted to the Clearing Firm the first of JTF's proprietary orders for execution. At or about this time, certain of the RRs attempted to place additional customer orders through their desktop terminals.

However, those orders could not be entered as the terminals reflected that the stock was restricted.

40. Misiti instructed the RRs that the customers' AWSR orders could not be entered for execution because there was a problem with the Clearing Firm's trading systems and that JTF was looking into the issue. Misiti further advised the RRs that they should fill out paper order tickets. At least six RRs did so. The tickets were ultimately given to Ward, who sat next to Misiti. As a result of multiple RRs handing in order tickets and trying to determine if their orders were being filled, a crowd of RRs formed near Ward and Misiti's desks.

41. Belesis saw this crowd and approached Ward and Misiti's desks and threatened the nearby RRs in words or substance that anyone who did not move away from the desks and go back to their seats would have to "deal with him."

42. Belesis' therefore knowingly prevented the RRs from interrupting Misiti, who at this time, was busy submitting JTF's proprietary sell orders to the Clearing Firm. Indeed, no customer AWSR orders were entered or executed on that day after Belesis made such threat.

43. Ward claims to have attempted to enter each of the at least 14 AWSR customer orders during the afternoon of February 23, but allegedly could not do so as the shares were also coming up as restricted on his terminal. Had Ward entered the orders, as he claims to have attempted, at the very least four customers' freely tradable AWSR positions that were not subject to the REST restriction would have been sold.

44. Ward further claims to have called several employees of the Clearing Firm in an attempt to find out why the shares were coming up as restricted on his terminal. Had Ward actually asked these employees to remove the restriction, they could easily have transferred him to the appropriate department at the Clearing Firm to remove the REST restriction.

45. Also according to Ward, while he was speaking to an employee of the Clearing Firm, he advised Misiti that there was a problem entering the customers' AWSR orders. However, Misiti neither responded to him nor offered Ward any assistance.

46. After allegedly attempting to enter the customers' AWSR sell orders, Ward made no subsequent efforts to do so even though the markets were still open. Also, at no time thereafter did Ward further pursue the issue. Instead, he executed orders in other securities for the remainder until the markets closed.

47. All the while, Misiti was sitting next to Ward, busily selling JTF's proprietary shares. Misiti was the only other person at JTF to contact the Clearing Firm concerning the entry of customer AWSR orders. However, she did not do so until after the close of the markets on February 23, 2012 and no additional proprietary shares could be sold. Tellingly, during the hour and 16 minutes that Misiti sold JTF's shares while on the phone with the Clearing Firm, she failed to even mention any concern with entering customer orders.

48. It was not until 5:14 p.m. on that day that Misiti created a spreadsheet that identified JTF customer accounts that held freely tradable AWSR shares. Shortly thereafter, she e-mailed this spreadsheet to the Clearing Firm. At 6:06 p.m., an employee from that firm sent an e-mail to Misiti stating that "[w]e verified that all accounts listed have no trading restrictions (REST) and will be good to go first thing."

*There Were No Problems with the Clearing Firm's
Ability to Trade AWSR shares on February 23, 2012*

49. The Clearing Firm's equity trading systems had no operational or other complications on February 23, 2012. Indeed, throughout the day, JTF and other correspondents of the Clearing Firm entered and executed a total of almost 1,000 sell orders in securities other

than AWSR without any issue or delay. Moreover, two other correspondents of the Clearing Firm successfully and timely entered customer orders that afternoon to sell AWSR shares.

50. Of course, as indicated, JTF was able to quickly dispose of 855,000 of its own shares that afternoon from the Prop Account. For the Clearing Firm's operational purposes, that account is viewed as identical to JTF's customer accounts.

*Subsequent Trading in AWSR Stock by JTF Customers
and JTF Falsely Places the Blame on the Clearing Firm*

51. On February 24, 2012, AWSR stock opened at 64 cents per share.

52. Also on that day, Ward entered 17 AWSR sell orders for 15 customers; seven market orders and ten limit orders. Two of the limit orders were executed. The prices for these sales ranged from 57 to 91 cents per share as compared to the \$1.26 average price at which JTF sold its AWSR shares on the prior day. Still, there existed at least seven customer orders that were received by JTF on February 23, 2012 that remained outstanding.

53. However, while certain JTF customers held AWSR shares that were statutorily restricted and thus, could not be sold, this was not the case for the 1.2 million shares and 14 customers whose RRs created order tickets and that should have been sold on February 23, 2012.

54. AB, who as stated above was a JTF RR, asked Castellano on February 24, 2012 what he should tell the firm's customers with respect to the failure of the firm to enter the customers' AWSR orders for execution. In response, Castellano informed AB that a problem with the Clearing Firm prevented the entry of such orders. In other words, JTF falsely placed the blame squarely on the Clearing Firm. In turn, AB told this to one or more of the firm's customers.

55. The stock closed on February 24, 2012 at 65 cents per share.

56. During at least one of the days following February 23, 2012, a senior member of JTF's staff, AC, advised Belesis that he should cancel the sales of the firm's proprietary AWSR shares on that day and rebill them to the customer accounts. Belesis refused to do so. Belesis advised AC that the customers' shares were restricted (i.e., neither registered under the 1933 Act nor subject to an exemption from registration).

57. Also, certain of JTF's RRs, including AF, told customers that their AWSR shares could not be sold on February 23, 2012 because there was insufficient volume in the stock on that day to sell their shares. As set forth in ¶ 30 above, the volume in the stock on that day was almost 8 million shares. This was sufficient so that all or most of the customer orders could be filled.

FIRST CAUSE OF ACTION
TRADING AHEAD OF CUSTOMER ORDERS
FINRA Rules 5320 and 2010
(JTF, Belesis and Misiti)

58. The Department realleges and incorporates by reference ¶¶ 1 through 57 above.

59. FINRA Rule 5320 prohibits a member that holds a customer order in an equity security from "trading that security on the same side of the market for its own account at a price that would satisfy the customer order, unless [the member] immediately thereafter executes the customer order up to the size and at the same or better price at which it traded for its own account."

60. FINRA Rule 2010 requires members, in the conduct of their business, to observe high standards or commercial honor and just and equitable principles of trade.

61. On February 23, 2012, between approximately 3:08 and 4:07 p.m., JTF, through Belesis and Misiti, sold 855,000 proprietarily-held shares of AWSR at prices that would have

satisfied outstanding customer orders to sell this stock on the same side of the market. As indicated above, JTF received at least 15 customer AWSR orders on the afternoon of February 23, 2012. However, JTF did not execute at least 14 of these customer orders in the size and at the same price or better at which it executed the proprietary shares.

62. Belesis instructed Misiti to sell as much of the firm's proprietary position as possible and thereafter effectively prevented RRs from interrupting Misiti while she was submitting JTF's orders to the Clearing Firm. Misiti spent an hour and 16 minutes on the phone with the Clearing Firm during which time she gave that firm 18 separate sell orders. While JTF's proprietary AWSR shares were being sold, customers AWSR orders were not entered for execution on February 23, 2012.

63. Such acts, practices and conduct constitute violations of FINRA Rules 5320 and 2010 by JTF, Belesis and Misiti.

SECOND CAUSE OF ACTION

BREACH OF DUTY OF BEST EXECUTION NASD Rule 2320, FINRA Rule 2010 (JTF, Belesis, Misiti and Ward)

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

65. NASD Rule 2320(a)(1) states, among other things, that "[i]n any transaction for or with a customer or a customer of another broker-dealer, a member and persons associated with a member shall use reasonable diligence to ascertain the best market for the subject security and buy or sell in such market so that the resultant price to the customer is as favorable as possible under prevailing market conditions."

66. Through Belesis, Misiti and Ward, JTF failed to use reasonable diligence to enter AWSR customer orders on February 23, 2012. As JTF's trader, Ward was responsible for

entering the customer orders into the Clearing Firm's systems for execution. However, as indicated, Ward took insufficient steps to enter at least 14 customers' orders to sell AWSR shares.

67. Further, other than making a casual remark to Misiti, who was sitting next to him and who neither responded to him nor timely undertook to enter customer orders or otherwise facilitate the entry of customer orders herself, Ward did not pursue the matter after attempting to enter the orders. Further, he did not elevate any concern while speaking to the Clearing Firm. This is despite the fact that Ward knew at the time that JTF had numerous marketable customer orders to sell AWSR stock.

68. Despite Misiti's responsibilities as the BOM, she did not contact the Clearing Firm regarding AWSR customer orders until after the market had closed and 855,000 of the firm's proprietary shares had been sold at advantageous prices.

69. As JTF's CEO, Belesis had overall responsibility for assuring compliance by the firm with applicable laws, rules and regulations, including rules related to equity trading. Despite this responsibility and the fact that he instructed Misiti to sell the firm's proprietary-held AWSR shares, Belesis took no steps to facilitate the entry of the customer orders.

70. JTF, through Belesis, Misiti and Ward, failed to use reasonable diligence to execute customer orders in AWSR stock on February 23, 2102. As a result, customer orders were not filled at a price as favorable as possible under prevailing market conditions. Some customer orders were executed the following day and thereafter at prices that were inferior to the prices available on February 23, 2012 and some customers did not sell at all.

71. Such acts, practices and conduct constitute violations of NASD Rule 2320 and FINRA Rule 2010 by JTF, Belesis, Misiti and Ward.

THIRD CAUSE OF ACTION
FAILURE TO FOLLOW CUSTOMER INSTRUCTIONS
FINRA Rule 2010
(JTF, Belesis, Misiti and Ward)

72. The Department realleges and incorporates by reference ¶¶ 1 through 71 above.

73. On February 23, 2012, at least 15 customers instructed JTF to sell their freely tradable AWSR shares.

74. However, JTF, acting through Belesis, Misiti and Ward, failed to follow these instructions for 14 of these orders in that they were never entered for execution on that day. Moreover, some of the orders were never entered at all.

75. As set forth in ¶¶ 31 through 50 above, Respondents took insufficient steps to follow customer instructions to execute AWSR orders.

76. Such acts, practices and conduct constitute violations of FINRA Rule 2010 by JTF, Belesis, Misiti and Ward.

FOURTH CAUSE OF ACTION
MISREPRESENTATIONS TO
RRs AND CUSTOMERS
Violation of FINRA Rule 2010
(JTF, Belesis and Misiti)

77. The Department realleges and incorporates by reference ¶¶ 1 through 76 above.

78. As alleged above in ¶¶ 40 and 54 above, JTF and Belesis, through Misiti and Castellano, stated to RRs on February 23 and 24, 2012 that customer orders to sell AWSR stock could not be entered because of a problem with the Clearing Firm. As a result, the RRs conveyed this misrepresentation to customers.

79. This statement was untrue because the Clearing Firm's trading systems were operating normally on February 23, 2012. Further, JTF, Belesis and Misiti took inadequate steps, if any, to timely enter customer AWSR orders for executions. Indeed, Belesis took no steps to do so. Misiti took no such steps until after the markets had closed.

80. As alleged in ¶ 56 above, Belesis refused to cancel the sale of the firm's proprietarily-held AWSR shares and rebill them to customer accounts, stating that the customers' shares were restricted. This statement was untrue because none of the AWSR shares that the customers wished to sell pursuant to the aforementioned 15 orders on February 23, 2012 were statutorily restricted.

81. As alleged above in ¶ 57 above, certain of JTF's RRs, including AF, told customers that their AWSR shares could not be sold because there was insufficient volume on that day to sell the shares. This was untrue as the volume in the stock on that day (almost 8 million shares) was sufficient so that all or most of the customer orders could be filled.

82. Such acts, practices and conduct constitute material misstatements and violations of FINRA Rule 2010 by JTF, Belesis and Misiti.

FIFTH CAUSE OF ACTION

INACCURATE AND INCOMPLETE BOOKS AND RECORDS AND FALSIFYING ORDER TICKETS FINRA Rule 4511(a) and 2010 and Rules 17a-3 and 17a-4 of the Securities Exchange Act (JTF, Belesis and Misiti)

83. The Department realleges and incorporates by reference ¶¶ 1 through 82 above.

84. FINRA Rule 4511(a) provides that "[m]embers shall make and preserve books and records as required under the FINRA rules, the Exchange Act and the applicable Exchange Act rules." Further, the maintenance of inaccurate books or records violates FINRA Rule 2010.

85. Rule 17a-3(a)(6) promulgated under the Exchange Act requires firms to make and keep current a memorandum of each brokerage order “whether executed or unexecuted” which shall include “the time the order was received; the time of entry. . .and, to the extent feasible, the time of execution or cancellation.”

86. Rule 17a-4(b)(1) promulgated under the Exchange Act requires firms to “preserve for a period of not less than three years, the first two years in an easily accessible place” all records that are required by SEC Rule 17a-3(a)(6).

87. As alleged in ¶¶ 36 and 37 above, on February 23, 2012, JTF received at least 14 customer AWSR sell orders that were not entered for execution on that day. JTF, through Belesis and Misiti, failed to make and keep current records of these orders as required by SEC Rule 17a-3(a)(6). Further, on February 24, 2012, Misiti created new order tickets for six of these orders. Misiti caused false information to be placed on these tickets when she caused them to be stamped with February 24, 2012 order receipt dates. At the time, Misiti knew that the orders for those tickets were received on February 23, 2012. Misiti therefore caused six order tickets, and as a result, JTF’s books and records to be inaccurate, thus violating Rule 17a-3(a)(6).

88. JTF, through Belesis and Misiti, also failed to preserve records for at least 14 unexecuted customer orders that it received on February 23, 2012 as required by SEC Rule 17a-4. These tickets were required by SEC Rule 17a-4(b)(1) to be preserved for at least three years.

89. As JTF’s CEO, Belesis had overall responsibility for assuring compliance by the firm with applicable laws, rules and regulations. As JTF’s BOM, Misiti was responsible for, among other areas, supervising the entry and execution of customer equity orders. Based on their knowledge of the wrongdoing set forth in ¶¶ 16 through 57 above, Belesis and Misiti knew

or should have known that JTF's books and records, including order tickets, were inaccurate and incomplete.

90. Such acts, practices and conduct constitute violations of FINRA Rules 4511 and 2010 by JTF, Belesis and Misiti in that they caused violations of SEC Rules 17a-3(a)(6) and 17a-4(b)(1).

SIXTH CAUSE OF ACTION
FAILURE TO SUPERVISE
NASD Rule 3010 and FINRA Rule 2010
(JTF, Belesis and Misiti)

91. The Department realleges and incorporates by reference ¶¶ 1 through 90 above.

92. NASD Rule 3010 requires, in part, that a FINRA registrant shall "establish and maintain a system to supervise the activities of each registered representative, registered principal, and other associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with NASD Rules," and that a FINRA registrant "shall establish, maintain, and enforce written procedures to supervise the types of business in which it engages."

93. As JTF's CEO, Belesis had overall responsibility for assuring compliance by the firm with applicable laws, rules and regulations.

94. As JTF's BOM, Misiti was responsible for, among other areas, supervising the entry and execution of customer equity orders.

95. During February of 2012, JTF had the following written supervisory procedures that purported to address trading ahead of customer equity orders:

Trading Ahead and Front-Running

Front-running is when a RR holds an unexecuted customer order and buy/sells for his /her own account at or better than the price at

which the customer order is filled. Front Running is strictly prohibited. This firm routinely monitors activity in its accounts and those of its associated persons to determine that orders for these accounts are not executed prior to customer orders in the same security.

Who: President or designated principal where applicable.

To Do: Review transaction blotter or order tickets to identify securities in which Firm/associated persons' accounts and customers' accounts effected trades. Compare times of execution. Create memoranda of investigations of questionable transactions and remedial actions taken, if any.

When: Daily

How: Initial blotter, order tickets and memoranda, if any.

96. Ward was designated by JTF as the individual who was responsible for the implementation of these procedures. Ward, however, failed to follow them in that he did not review a trade blotter or any order tickets on or about February 23, 2012 to identify trading ahead misconduct. Further, on or about that date, Ward had no knowledge that JTF either maintained a proprietary position in AWSR stock or had sold any of that position. As a result, although JTF designated Ward with responsibility for ensuring compliance with these procedures, it failed to notify him of such or provide him with the information necessary to be able to do so.

97. The above supervisory failings were exacerbated by the fact that, JTF, through Belesis and Misiti, created circumstances where as the customers' AWSR orders were not being entered: (a) Ward, who had been at the firm for approximately two weeks, was responsible for entering the orders, and (b) Misiti, who is JTF's BOM, could not be bothered to assist Ward because she was busily selling the firm's proprietarily-held AWSR shares.

98. The above supervisory failings were also exacerbated by the fact that, as set forth in ¶¶ 31 through 50 above, Belesis and Misiti failed to take any supervisory steps that were

reasonably calculated to ensure that the customer orders were timely executed. As a result, JTF was able to improperly trade ahead of customer orders in AWSR on that date.

99. JTF also failed to establish and maintain a supervisory system that was reasonably designed to ensure compliance with FINRA Rule 4511 and Rules 17a-3 and 17-4 under the Exchange Act. As set forth in ¶¶ 83 through 90 above, JTF failed to make and keep current accurate records of at least 14 customer AWSR sell orders received on February 23, 2012.

100. Based on the foregoing, JTF, Belesis and Misiti failed to establish and maintain a supervisory system with respect to JTF's trading function and recordkeeping practices that was reasonably designed to achieve compliance with securities laws, regulations and rules.

101. Such acts, practices, and conduct constitute violations of NASD Rule 3010 and FINRA Rule 2010 by JTF, Belesis and Misiti.

SEVENTH CAUSE OF ACTION

PROVIDING FALSE AND MISLEADING INFORMATION TO FINRA Violation of FINRA Rules 8210 and 2010 (Belesis and Misiti)

102. The Department realleges and incorporates by reference ¶¶ 1 through 101 above.

103. FINRA Rule 8210 requires a "person subject FINRA's jurisdiction...to testify at a location specified by FINRA staff, under oath or affirmation administered by a court reporter...with respect to any matter involved in the investigation, complaint, examination or proceeding." Rule 8210 prohibits a person subject to FINRA's jurisdiction from providing false or misleading information to FINRA in connection with an examination or investigation.

104. On December 6 and 10, 2012, pursuant to FINRA Rule 8210, Belesis appeared for sworn, on-the-record testimony. Misiti appeared for such testimony on January 7, 2013. At the outset of these testimonies, the staff instructed Belesis and Misiti concerning their obligation

under Rule 8210 to answer FINRA's questions completely and truthfully. The staff further instructed them that their failure to do so could be the basis for the initiation of a disciplinary proceeding that could lead to the imposition of sanctions, including a bar from the industry. At such times, Belesis and Misiti both stated that they understood these instructions.

105. During these testimonies, Belesis and Misiti answered the staff's questions about the events on February 23, 2012 as follows:

Q: Did Mr. Belesis come to your desk at all that day while you were executing the order?

A (Misiti): No. Not that I recall.

* * *

Q: Mr. Belesis, do you know if any customers of [JTF] requested on February 23rd, 24th that their AWSR stock be sold?

A (Belesis): I don't know that.

* * *

Q: Is there anything that you know of that prevented customers of the firm from selling their shares, AWSR shares, on [February 23 or 24]?

A (Belesis): No.

* * *

Q: Did you give the brokers any instructions that day regarding [AWSR stock]?

A (Belesis) No.

106. As set forth above, the testimony set forth in ¶ 105 above is false. Belesis approached Ward and Misiti's desks on February 23, 2012 where he threatened the RRs in words or substance that they dare not continue to approach Ward or Misiti with customer AWSR orders and to return to their desks or else they would have to deal with him. Belesis knew that a number of JTF customers instructed that their AWSR stock be sold. He knew that his actions effectively prevented the RRs from speaking about the customer orders with Misiti or Ward and

thus interfered with those orders. He also gave instructions on that day concerning trading in AWSR stock.

107. Such acts, practices and conduct constitute violations of FINRA Rules 8210 and 2010 by Belesis and Misiti.

EIGHTH CAUSE OF ACTION

**SECURITIES FRAUD,
Section 10(b) of the Securities and Exchange Act of 1934 and Rule 10b-5 thereunder and
FINRA Rules 2020 and 2010
(JTF and Belesis)**

108. The Department realleges and incorporates by reference ¶¶ 1 through 107 above.

109. Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder together proscribe fraudulent conduct in connection with the purchase or sale of securities. It is a violation of these provisions, in connection with the purchase or sale of a security, directly or indirectly, by the use of the means or instrumentalities of interstate commerce, or of the mails, or of any facility of any national securities exchange, to knowingly or recklessly employ devices, schemes, or artifices to defraud; to engage in acts, practices, or courses of business which operate as a fraud or deceit upon any person; to make a misstatement or omission of material fact; or to effect transactions in, or induce the purchase or sale of, any security by means of any manipulative, deceptive, or other fraudulent device or contrivance.

110. FINRA Rule 2020 provides that “[n]o member shall effect any transaction in, or induce the purchase or sale of, any security by means of any manipulative, deceptive or other fraudulent device or contrivance.”

111. JTF and Belesis violated the above antifraud provisions on February 23, 2012 and thereafter through manipulative, deceptive and/or fraudulent devices, means, schemes, artifices,

acts, practices and/or courses of business which operated as a fraud and deceit, including: (a) selling proprietarily held AWSR stock while knowingly or recklessly preventing the entry and thus execution of marketable customer sell orders in the stock, and (b) making material misrepresentations to customers, RRs and other firm personnel by falsely stating through Belesis, Misiti and Castellano that such orders could not be entered for execution because (1) a problem existed with the Clearing Firm; (2) the customers' shares were unregistered under the 1933 Act and not subject to an exemption from registration; and (3) there was insufficient volume in the stock.

112. Customer orders to sell freely tradable AWSR shares that were not subject to the REST restriction could have been immediately entered by JTF upon receipt. Further, customer orders to sell freely tradable shares that were subject to the REST restriction could have been entered by the firm shortly after receipt. This is because the restriction could have been removed almost immediately upon contacting the appropriate person at the Clearing Firm who could do so.

113. However, JTF personnel, including Belesis, Misiti and Ward, either recklessly or intentionally failed to contact the appropriate person at the Clearing Firm to have the REST restriction removed until after the close of the markets. At best, Ward made only minimal calls to the Clearing Firm in this regard. Misiti did not contact the Clearing Firm regarding customer AWSR orders until after the markets closed and she had finished selling JTF's proprietary shares for the day.

114. Further, during the afternoon of February 23, 2012, Belesis approached Ward and Misiti's desks and, in a threatening manner, instructed certain of JTF's RRs to stay away from

the area or they would have to "deal with him." This effectively prevented the RRs from speaking about the customer orders with Misiti or Ward.

115. Indeed, Belesis previously demonstrated an intention to interfere with the sale of customers' AWSR shares on or around June 17, 2011. On that day, a JTF RR sold freely tradable AWSR shares for a few of the firm's customers. After these sales occurred, the RR received a telephone call from Belesis who demanded, in a threatening manner, that the RR stop selling the shares because doing so would cause a decline in stock price.

116. In addition, JTF, acting through Belesis, Misiti and Castellano, knowingly or recklessly made material misstatements about the reason customer orders were not executed. As noted above, February 23 and 24, 2012 and thereafter, Misiti and Castellano falsely informed certain of the firm's RRs, including AB, AF and AG that a problem with the Clearing Firm prevented the entry of such orders. In turn, the RRs told this to at least two of the firm's customers.

117. During the days after February 23, 2012, AC, a senior member of JTF's staff spoke to Belesis and at such time insisted that he should cancel the sales of the firm's proprietarily-held AWSR shares and rebill them to the customer accounts. Belesis refused to do so, stating falsely that the customers' were not entitled to recompense because their shares were statutorily restricted (i.e., neither registered under the 1933 Act nor subject to an exemption from registration).

118. However, customer orders totaling approximately 1.2 million shares were freely tradable and should have been sold on February 23, 2012.

119. As alleged above, certain of JTF's RRs, including AF, told customers that their AWSR shares could not be sold because there was insufficient volume on that day to sell the

shares. This was untrue as the volume in the stock on that day was almost 8 million shares. This was sufficient so that all or most of the customer orders could be filled.

120. JTF, acting through Belesis and Misiti, attempted to conceal the above misconduct by failing to maintain order tickets for at least the 14 customer AWSR orders received on February 23, 2012. They also created falsified tickets for six of these orders, which indicated that the orders were received on February 24, 2012 rather than February 23, 2012. Belesis and Misiti further attempted to conceal the fraudulent conduct by making misstatements to FINRA concerning Belesis' role in the misconduct.

121. As a result of JTF's sale of its proprietary-held AWSR shares on February 23, 2012, JTF reaped proceeds of approximately \$1,080,135.

122. During the course of the misconduct described above, JTF and Belesis, in connection with the sale and attempted sale of securities, directly or indirectly, by the use of the means or instrumentalities of interstate commerce, or by the mails, or of any facility of any national securities exchange, knowingly, or recklessly: employed devices, schemes or artifices to defraud; engaged in acts, practices, or courses of business which operated or would operate as a fraud or deceit upon any person; and/or effected transactions in, or induced the purchase or sale of, any security by means of any manipulative, deceptive, or other fraudulent device or contrivance.

123. Such acts, practices and conduct constitute willful violations of the Securities and Exchange Act of 1934 § 10(b), Rule 10b-5 promulgated thereunder and FINRA Rules 2020 and 2010.

NINTH CAUSE OF ACTION

**FAILURE TO OBSERVE HIGH STANDARDS OF COMMERCIAL HONOR
AND JUST AND EQUITABLE PRINCIPLES OF TRADE**

**Violation of FINRA Rule 2010
(JTF, Belesis and Misiti)**

124. The Department realleges and incorporates by reference ¶¶ 1 through 123 above.

125. Through Belesis and Misiti, JTF failed to observe high standards of commercial honor and just and equitable principles of trade by: (a) selling proprietarily held AWSR stock while preventing the sale of such stock held by customers, and (b) making material misrepresentations and omissions to customers and RRs concerning the reasons that orders to sell the stock on behalf of customers were not timely executed or executed at all.

126. Such acts, practices and conduct constitute violations of FINRA Rule 2010 by JTF, Belesis and Misiti.

TENTH CAUSE OF ACTION

**THREATENING, HARASSING, COERCING, INTIMATING AND
OTHERWISE ATTEMPTING TO IMPROPERLY INFLUENCE**

INDIVIDUALS ASSOCIATED WITH A MEMBER

**FINRA Rules 5240 and 2010
(JTF, Belesis, Castellano and Cantalupo)**

127. The Department realleges and incorporates by reference ¶¶ 1 through 126 above.

128. FINRA Rule 5240 states that no member or person associated with a member shall “engage, directly or indirectly, in any conduct that threatens, harasses, coerces, intimidates or otherwise attempts improperly to influence another member, a person associated with a member or any other person.”

129. JTF, Belesis, Castellano and Cantalupo have conducted business at JTF in a threatening, intimidating and coercive manner. On numerous occasions, they have physically

threatened and intimidated RRs who have disagreed with Belesis' business practices. Castellano and Cantalupo have assaulted RRs. Moreover, JTF, Belesis and Castellano have threatened to end RR's financial careers by, among other actions, causing JTF to file Form U5s and amendments thereto that falsely state the RRs engaged in serious wrongdoing.

a. AB Group Members

130. As discussed above, in or about June 2011, AB sold AWSR shares for a few of his customers. At this time, Belesis instructed him in a threatening manner to stop selling the shares.

131. In or around December 2012, AB voiced concerns with respect to the quality of the people being brought in to give investment presentations to JTF's staff. In response, Belesis telephoned AB, screamed at him and threatened to run AB and another JTF RR over in the street.

132. Also, on or about December 21, 2012, at or about the time of AB's resignation from JTF, Belesis telephoned him and groundlessly threatened to mark his Form U5 with negative information concerning the circumstances surrounding his termination. Belesis stated at that time "[w]atch what I do to your U5. I am already going to the office right now." Belesis telephoned AB a second time several days later and again threatened to file an inaccurate Form U5. At that time, Belesis stated, "[y]ou will see what I will do to your U5. You will get it shortly."

133. Form U5s for AB and the four other RRs in AB's work group who resigned from JTF with him were filed and amended in January 2013 and on or around March 1, 2013. The January filings for four of these individuals stated that they were under internal firm investigation for: (1) computer fraud; (2) possession of documents and other information in violation of Regulation S-P; (3) misrepresentations of fact intended for FINRA staff to rely upon;

(4) conspiracy to misappropriate proprietary and confidential information of the firm; (5) wrongful solicitation of firm customers and personnel; and (6) breach of contract.

134. The March amendment stated that these individuals were the subject of an internal JTF review which was being conducted to determine whether they made "[s]tatements. . . under oath, and possibly otherwise as well, that were knowingly false or willfully exaggerated for the collateral purpose of causing economic, regulatory, and reputational harm to a member firm and one or more of its officers and [RRs]." Castellano signed each of these filings.

135. Subsequently on March 7, 2013, Castellano signed letters on behalf of JTF that were sent to AB and the four other members of AB's workgroup. In these letters, Castellano advised that JTF had initiated an additional internal review and the five RRs were required to appear on March 14 and 15, 2013 for sworn testimony that would be transcribed by a court reporter. Among other things, the letters stated:

Should you not appear for the Interview or if, having appeared, you decline to answer questions posed to you, [JTF] may draw a negative inference from your failure to do so in making conclusions with regard to the matters under review. Additionally or in the alternative, JTF may conclude that you are declining to provide reasonable cooperation in the internal review, which in and of itself, may be a conclusion the Firm reports to the Central Registration Depository in making findings with regard to the matters under review.

Prior to sending these letters to the 5 RRs, Castellano did nothing to determine whether information of this nature is properly reportable to the Central Registration Depository.

136. These letters were intended to harass, intimidate and coerce the five RRs as a result of their decision to terminate their employment with JTF.

b. AC

137. AC is the former head of JTF's Investment Banking Department. Prior to leaving JTF in March of 2013, he supervised a staff of about almost 20 individuals. When Belesis

learned of AC's intention to leave JTF and take his staff with him, Belesis attempted to coerce him to stay at the firm. When AC refused to do so, Cantalupo telephoned AC and stated that he wanted to meet AC in person. When AC refused this request indicating that he did not want to do so because Cantalupo had previously been incarcerated for drug-related crimes, Cantalupo told AC that even if it meant he went back to prison, he would "get" AC. In response, AC called the police.

c. AD

138. On or about February 15, 2013, shortly after Belesis learned that AD was planning to leave JTF, AD was berated by Belesis, and was escorted out of JTF and had his bag searched by another RR at the firm. Belesis threatened AD by saying in words or substance, "f*** you, you're done in this business, you're done in this business, get the f*** out of here." AD understood these statements to mean that Belesis would wrongfully amend AD's Form U5 based on his decision to look elsewhere for employment.

139. Additionally, Cantalupo shoved AD while he was being escorted out, as part of the above effort to intimidate, harass and coerce AD as a result of AD's decision to terminate his employment at JTF.

d. AE

140. AE is a former JTF RR. In 2012, AE told a representative of the firm that if he were not paid the \$27,000 commission due to him, he would report the matter to FINRA. Castellano asked AE to come into a conference room at JTF's offices, but leave his cell phone on Castellano's desk. Once inside the conference room, Castellano verbally intimidated AE threatening "I'm gonna get you, you f***." Castellano also checked AE for concealed recording devices against AE's will and physically assaulted him.

141. Such acts, practices and conduct constitute violations of FINRA Rules 5240 and 2010 by JTF, Belesis, Castellano and Cantalupo.

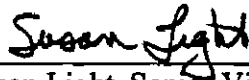
RELIEF REQUESTED

WHEREFORE, the Department 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), including monetary sanctions, 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.
- D. Make specific findings that JTF and Belesis willfully violated Exchange Act Section 10(b) and Rule 10b-5 thereunder, and that JTF, Belesis and Misiti willfully violated Exchange Act Section 17(a), Rules 17a-3 and 17a-4 thereunder.

FINRA DEPARTMENT OF ENFORCEMENT

Date: April 15, 2013



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