

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

LEK SECURITIES CORP.
(CRD No. 33135),

and

CHARLES FREDERIK LEK
(CRD No. 4672129)

Respondents.

Disciplinary Proceeding
No. 2021071137001

Hearing Officer–RES

**EXTENDED HEARING PANEL
DECISION**

March 22, 2024

Respondent Lek Securities Corporation is fined \$1,130,000 and expelled from FINRA membership for failure to comply with an Order Accepting Offer of Settlement by violating a business line suspension imposed in said Order, failure to comply with the Order by not implementing all the recommendations of an Independent Consultant, and making false representations to FINRA about its compliance with the Order. We impose the sanctions also for the firm’s failure to develop and implement a reasonable anti-money laundering supervisory program, failure to establish, maintain, and enforce a supervisory system reasonably designed to supervise the firm’s low-priced securities business line, and willful failure to capture and retain records relating to unapproved communication methods.

Respondent Charles Frederik Lek is fined \$100,000 and barred from associating in any capacity with any FINRA member firm for failure to comply with the Order Accepting Offer of Settlement by violating the business line suspension imposed in said Order, failure to comply with the Order by not implementing all the recommendations of the Independent Consultant, and making false representations to FINRA about Lek Securities Corporation’s compliance with the Order. We impose the sanctions also for Lek’s failure to develop and implement a reasonable anti-money laundering supervisory program, and failure to establish, maintain, and enforce a supervisory system

reasonably designed to supervise Lek Securities Corporation’s low-priced securities business line.

Appearances

For Complainant: Gregory R. Firehock, Esq., Perry C. Hubbard, Esq., and Mark S. Geiger, Esq.,
Department of Enforcement, Financial Industry Regulatory Authority

For Respondents: Ralph A. Siciliano, Esq., Adam M. Felsenstein, Esq., Andrew L. Dubin, Esq.,
and Lillianna R. Iorfino, Esq., Tannenbaum Helpen Syracuse & Hirschtritt LLP

DECISION

I. Introduction

FINRA’s Department of Enforcement filed a Complaint against Respondents Lek Securities Corporation (“Lek Securities” or “LSC”) and Charles Frederik Lek (“Lek”). The Complaint alleges that in late 2019, Lek Securities and its founder, Samuel Lek (Lek’s father), settled a FINRA disciplinary proceeding concerning the firm’s low-priced securities business line. This settlement was memorialized in an Order Accepting Offer of Settlement issued by FINRA (“Order” or “Order Accepting Settlement”). The Complaint’s first three causes of action allege that, contrary to the sanctions and undertakings in this Order, Lek Securities and Lek: (1) accepted for deposit and liquidated low-priced securities at a time when a business line suspension for such securities was in effect; (2) failed to implement 18 of 98 recommendations made by an Independent Consultant retained under the Order to assess Lek Securities and help improve the firm’s supervisory and anti-money laundering (“AML”) systems and procedures; and (3) falsely certified to FINRA that the firm had implemented all the Independent Consultant’s recommendations.¹ According to the Complaint, Lek Securities and Lek violated FINRA Rule 2010 by engaging in this alleged misconduct.

The fourth cause of action alleges that Lek Securities and Lek failed to develop and implement an AML program reasonably designed to achieve and monitor the firm’s compliance with the Bank Secrecy Act and its implementing regulations.² Part of this compliance required that Lek Securities and Lek detect and investigate suspicious activities such as fraudulent “pump and dumps” of publicly traded securities. Lek Securities and Lek knew or should have known about many red flags of potentially suspicious activity in deposits and trading related to low-

¹ Complaint (“Compl.”) ¶ 2.

² Compl. ¶ 7.

priced securities sold through the firm.³ According to the Complaint, Lek Securities and Lek violated FINRA Rules 3310 and 2010 by engaging in this alleged misconduct.⁴

The fifth cause of action alleges that Lek Securities and Lek failed to establish, maintain, and enforce a supervisory system, including written supervisory procedures (“WSPs”), reasonably designed to detect, investigate, and prevent illegal activity by customers in the firm’s low-priced securities business line.⁵ Part of this supervision required that Lek Securities and Lek detect and investigate red flags indicating such activities as unregistered distributions of securities. According to the Complaint, Lek Securities and Lek violated FINRA Rules 3110 and 2010 by engaging in this alleged misconduct.⁶

The sixth cause of action alleges that Lek Securities employees, including Lek and senior management, used unapproved methods of electronic communication for the firm’s business, causing it to fail to capture and retain records of such communications.⁷ According to the Complaint, Lek Securities willfully violated Section 17 of the Securities Exchange Act of 1934 (“Exchange Act”), Exchange Act Rule 17a-4, and FINRA Rules 4511 and 2010 by engaging in this alleged misconduct.⁸

In Respondents’ Answer and Amended Answer, Lek Securities denies that it violated federal securities laws or regulations or FINRA Rules. Lek denies he violated FINRA Rules.

The parties participated in a hearing before an Extended Hearing Panel (“Hearing Panel”). After carefully considering the hearing testimony, the hearing exhibits, and the parties’ pre-hearing and post-hearing briefs, the Hearing Panel concludes, as explained below, that: (1) Lek Securities and Lek violated FINRA Rule 2010 by failing to comply with the Order Accepting Settlement by violating the business line suspension required by that Order; (2) Lek Securities and Lek violated FINRA Rule 2010 by not implementing all the Independent Consultant’s recommendations, as required by the Order; (3) Lek Securities and Lek violated FINRA Rule 2010 by making false representations to FINRA about the firm’s compliance with the Order; (4) Lek Securities and Lek violated FINRA Rules 3310 and 2010 by failing to implement a reasonable AML program; (5) Lek Securities and Lek violated FINRA Rules 3110 and 2010 by failing to supervise reasonably the firm’s low-priced securities business line; and (6) Lek Securities violated Section 17 of the Exchange Act, Exchange Act Rule 17a-4, and FINRA Rules 4511 and 2010 by willfully failing to retain records created by unapproved communication methods. Based on these conclusions, the Hearing Panel fines Lek Securities \$1,130,000 and

³ Compl. ¶ 6.

⁴ Compl. ¶ 7.

⁵ Compl. ¶ 5.

⁶ Compl. ¶ 7.

⁷ Compl. ¶ 8.

⁸ Compl. ¶ 8. In Respondents’ Post-Hearing Brief (“Respondents’ Brief”), Lek Securities did not contest liability on this cause of action. Respondents’ Brief 95.

expels the firm from FINRA membership, and fines Lek \$100,000 and bars him from associating in any capacity with any FINRA member firm.

II. Findings of Fact

A. Lek Securities Corporation

Lek Securities was a Delaware corporation formerly headquartered in New York.⁹ Lek Securities was registered with FINRA from 1996 until February 3, 2023.¹⁰ Lek Securities operated as an independent order-execution and clearing brokerage firm. Some of the firm's customers deposited and liquidated low-priced securities.¹¹ The firm cleared low-priced securities transactions for an introducing FINRA member firm, J.H. Darbie & Co. ("J.H. Darbie"), until early spring 2020.¹² The firm was affiliated with a London-based sister company, Lek Securities UK Ltd. ("Lek UK").¹³ Lek Securities Holdings, Ltd. ("Lek Securities Holdings") was the parent company of Lek UK and Lek Securities, and owned 100 percent of both Lek UK and Lek Securities.¹⁴ Before October 2019, Samuel Lek was Chief Executive Officer ("CEO"), Chief Compliance Officer ("CCO"), and Anti-Money Laundering Compliance Officer ("AMLCO") of Lek Securities.¹⁵

Lek Securities has relevant disciplinary history. FINRA commenced an AML disciplinary proceeding against Lek Securities in 2013.¹⁶ In this proceeding, Enforcement alleged Lek Securities had failed to design and implement reasonable AML policies, procedures, and internal controls tailored to its business model.¹⁷ The FINRA Hearing Panel found for Enforcement and fined Lek Securities \$100,000.¹⁸

In 2018, the firm settled a FINRA disciplinary proceeding for systemic supervisory failures in trade reporting.¹⁹ The complaint alleged the firm's supervisory procedures, including its WSPs, were inadequate and failed to achieve the minimum requirements for supervision.²⁰

⁹ Stipulations ("Stip.") ¶ 1.

¹⁰ Stip. ¶ 1.

¹¹ Stip. ¶ 3.

¹² *Id.*

¹³ Hearing Transcript ("Tr.") 113, 1410 (Lek).

¹⁴ Tr. 104, 214 (Lek).

¹⁵ Tr. 183-84, 207 (Lek).

¹⁶ Joint Exhibit ("JX-") 386, at 25; Tr. 130 (Lek).

¹⁷ JX-386, at 25.

¹⁸ JX-386, at 26; Tr. 134 (Lek).

¹⁹ JX-386, at 72-73; Tr. 136 (Lek).

²⁰ JX-386, at 72.

Without admitting or denying liability, the firm agreed to be censured and retained an independent consultant to conduct a comprehensive review of the firm’s policies, systems, WSPs, and training relating to the alleged violations.²¹

In June 2022, the Depository Trust & Clearing Corporation (“DTCC”) issued a decision ordering that DTCC would cease to act on behalf of Lek Securities in the deposit and clearing of securities in the form of physical stock certificates.²² The DTCC Hearing Panel found two grounds supporting its decision: first, Lek Securities’ weak capital position; and second, the firm’s inadequate responses, failures to respond, and false responses in its communications with DTCC’s staff in the investigation of the matter.²³ The DTCC Hearing Panel found the firm had engaged in an affirmative effort to avoid providing DTCC with material information that could cast an unfavorable light and possibly lead to unfavorable determinations by DTCC.²⁴ DTCC also imposed a \$120,000 fine for Lek Securities’ failure to adhere to an activity cap on the firm’s gross market value.²⁵

Lek Securities filed a Form BDW Uniform Request for Broker-Dealer Withdrawal with the Securities and Exchange Commission (“SEC”) and went out of business in March 2023.²⁶ Lek Securities no longer conducts business.²⁷

B. Charles Lek

Charles Lek was first employed in the securities industry in 2007.²⁸ Lek Securities was Lek’s first job out of college.²⁹ He worked for Lek Securities until the firm’s closure.³⁰ He first registered with FINRA in 2008 as a General Securities Representative through his association with the firm.³¹ Lek holds Series 7, Series 24, and Series 63 licenses as well as other licenses in the United Kingdom.³² He has been Managing Director of Lek UK from 2010 to present.³³

²¹ JX-386, at 72-73.

²² Tr. 115 (Lek).

²³ JX-399, at 5; Tr. 117-19 (Lek).

²⁴ JX-399, at 19; Tr. 121-22 (Lek).

²⁵ Tr. 124-25 (Lek).

²⁶ Tr. 114 (Lek).

²⁷ Stip. ¶ 2.

²⁸ Stip. ¶ 5.

²⁹ Tr. 102-03 (Lek).

³⁰ Stip. ¶ 6.

³¹ Stip. ¶ 5.

³² Tr. 3522 (Lek).

³³ Stip. ¶ 7.

Lek became CEO of Lek Securities in October 2019, succeeding his father Samuel Lek.³⁴ Before becoming CEO, Lek worked in the firm’s operations and settlement department.³⁵ In 2019, he became majority owner and Managing Director of Lek Securities Holdings.³⁶ His annual salary was \$225,000.³⁷ He owned 89 percent of Lek Securities Holdings.³⁸ Lek received dividends from Lek Securities Holdings in the amount of \$11 million in 2020 and more than \$11 million in 2021.³⁹

C. Lek Securities and Lek Accept Deposits of Low-Priced Securities After the Issuance of the Order Accepting Settlement

To settle the disciplinary proceeding that Enforcement had filed against Lek Securities and Samuel Lek, Lek executed and submitted an Offer of Settlement on behalf of the firm.⁴⁰ FINRA issued the Order Accepting Settlement on Friday, December 20, 2019.⁴¹ With certain exceptions, the Order imposed on Lek Securities a business line suspension against the deposit or sale of low-priced securities.⁴² The business line suspension was to remain in effect until Lek Securities certified to FINRA that the firm had implemented the recommendations of an Independent Consultant:

LSC shall not accept for deposit any low-priced security (defined herein as any equity security that does not trade on a national securities exchange and trades at a price of less than \$5 per share at the time it is submitted to LSC for deposit or sale) until the Firm certifies to FINRA that it has implemented the recommendations of the Independent Consultant as described below.⁴³

One of the exceptions to the business line suspension was that Lek Securities could execute orders to sell low-priced securities if “[t]he securities were deposited at LSC prior to the issuance of this Order.”⁴⁴ The Order also provided, “The sanctions imposed herein shall be

³⁴ Stip. ¶ 6; Tr. 103, 204 (Lek).

³⁵ Tr. 105 (Lek).

³⁶ Stip. ¶ 7.

³⁷ Tr. 125-26 (Lek).

³⁸ Tr. 868 (Lek).

³⁹ Tr. 128-29 (Lek).

⁴⁰ Stip. ¶ 14.

⁴¹ Stip. ¶ 13; JX-14.

⁴² Stip. ¶ 15; JX-14, at 34.

⁴³ Stip. ¶ 16; JX-14, at 34. This Extended Hearing Panel Decision adopts the same definition of “low-priced security.”

⁴⁴ JX-14, at 34; Tr. 288 (Lek).

effective on a date set by FINRA staff.”⁴⁵ In the Order, the business line suspension was one of the “Sanctions.”⁴⁶

FINRA emailed the Order to Lek Securities’ outside counsel on Friday, December 20, 2019, at 3:51 p.m.⁴⁷ Outside counsel forwarded this email, and the Order, to Lek at 4:44 p.m. that same day.⁴⁸ In the hearing, Lek testified he did not see the email or the Order until the night of Monday, December 23, 2019.⁴⁹ The asserted reason for his delay in seeing the email and the Order was that he was on vacation.⁵⁰ According to Lek, at 4:44 p.m. on Friday, December 20, 2019, he was on his way to LaGuardia Airport.⁵¹ Yet on Sunday, December 22, at 5:52 p.m., Lek emailed all Lek Securities employees stating, “I am actively working. I expect people to be on TEAMS so I can communicate efficiently.”⁵²

After Enforcement emailed the Order to Lek Securities’ outside counsel, the firm accepted eight deposits of low-priced securities.⁵³ These were the deposits:

- Lek Securities opened a case for the deposit of 128,038 shares of GNBT common stock by Customer A on Friday, December 20, 2019, at 3:52 p.m., and approved the deposit on Monday, December 23, 2019.⁵⁴ Lek Securities executed sales of GNBT securities beginning Tuesday, December 24, 2019, and continued executing sales until the position was liquidated on December 31, 2019.⁵⁵ The principal amount of this liquidation was \$72,027.⁵⁶
- Lek Securities accepted a deposit of 1,505,376 shares of RETC common stock by Customer B on Monday, December 23, 2019, and liquidated

⁴⁵ JX-14, at 40.

⁴⁶ JX-14, at 33-34.

⁴⁷ JX-16, at 2-3; Tr. 308 (Lek).

⁴⁸ JX-16, at 2; Tr. 308 (Lek).

⁴⁹ Tr. 297 (Lek).

⁵⁰ Tr. 308-09 (Lek).

⁵¹ Tr. 323 (Lek).

⁵² JX-20, at 1; Tr. 311 (Lek).

⁵³ Tr. 334-39, 360 (Lek).

⁵⁴ Tr. 331-32 (Lek); Complainant’s Exhibit (“CX-”) 4, at 1-2; JX-17. Thus, Customer A submitted the securities for deposit one minute after FINRA emailed the Order to Lek Securities’ outside counsel. Tr. 3000-01 (Fraunhoffer). Witness Fraunhoffer is a Principal Investigator in FINRA’s Department of Enforcement.

⁵⁵ Tr. 334-35 (Lek); CX-4, at 3-4.

⁵⁶ CX-4, at 4. All monetary amounts in this Decision are rounded to the nearest dollar.

these securities by December 31, 2019.⁵⁷ The principal amount of this liquidation was \$4,070.⁵⁸

- Lek Securities accepted a deposit of 82,088 shares of PPCB common stock by Customer A on Monday, December 23, 2019, and liquidated these securities by December 30, 2019.⁵⁹ Lek Securities did not charge a DWAC fee for this deposit.⁶⁰ The firm's Certificate Processing Program reflected the deposit was abandoned even though it was fully liquidated.⁶¹ The principal amount of this liquidation was \$10,529.⁶²
- Lek Securities accepted a deposit of 26,923,076 shares of WCVC common stock by Customer C on Monday, December 23, 2019, and liquidated these securities by January 28, 2020.⁶³ The principal amount of this liquidation was \$5,304.⁶⁴
- Lek Securities accepted a deposit of 100,000 shares of ALDS common stock by Customer D on Monday, December 23, 2019, but did not liquidate these securities while the business line suspension was in effect.⁶⁵
- Lek Securities accepted deposits of GHBL, SFOR, and NGTF securities on Monday, December 23, 2019. Lek Securities did not liquidate these deposits because they were abandoned by the customers.⁶⁶

D. Lek Directs Lek Securities Employees to Suspend the Processing of Certificated Deposits of Low-Priced Securities

At 10:42 p.m. on Monday, December 23, 2019, Lek forwarded the email from Lek Securities' outside counsel and the Order to all the firm's employees. Lek's forwarding email

⁵⁷ Tr. 337 (Lek); CX-5, at 8.

⁵⁸ CX-5, at 8.

⁵⁹ Tr. 338 (Lek); CX-6, at 1, 8.

⁶⁰ Tr. 359-61 (Lek); CX-6, at 2. "DWAC" stands for "Deposit/Withdrawal At Custodian."

⁶¹ Tr. 362, 4101-03 (Lek); CX-6, at 2.

⁶² CX-6, at 8.

⁶³ Tr. 338 (Lek); CX-7, at 1, 8.

⁶⁴ CX-7, at 8.

⁶⁵ Tr. 339 (Lek); CX-8, at 1.

⁶⁶ Tr. 339 (Lek), 3022-23 (Fraunhoffer); CX-9, at 1.

stated, “NO PROCESSING OF CERTIFICATED DEPOSITS (including drs AND dwac). THIS ORDER IS A TEMPORARY SUSPENSION TO THE BUSSINESS [sic] LINE ONLY.”⁶⁷

Lek testified that this forwarding email put the business line suspension into effect.⁶⁸ Lek sent his email to helpdesk@leksecurities.com, a mailing list that included all Lek Securities employees, including Michael Mainwald, Lek Securities’ Head Trader and Chief Operating Officer (“COO”); firm employee Ramute Zukas; and the firm’s Compliance Department.⁶⁹ Thirteen minutes later, Mainwald sent a reply-to-all email asking, “If whatever has cleared and is in the account -it can still be traded correct?”⁷⁰ Lek responded, “Yes. This applies to new deposits, including repeat deposits. Anything currently in the account can [be] liquidated.”⁷¹ Following Lek’s email, Mainwald treated deposits of low-priced securities already accepted by Lek Securities as free to trade.⁷²

The following Thursday, December 26, 2019, Mainwald sent another reply-to-all email about the business line suspension to Lek and the employees of Lek Securities. In this email, Mainwald requested of Lek, “Can YOU please put together a few lines -explaining so we can send to Darbie/Paulson/and others.”⁷³ Lek Securities had not informed J.H. Darbie of the beginning of the business line suspension.⁷⁴

The following Monday, Zukas also replied to all asking Lek to write an explanation of the business line suspension so she could provide it to customers.⁷⁵ Lek responded by asking Zukas to have customers call him directly.⁷⁶ Zukas emailed J.H. Darbie stating, “Please do not send any more cases until further notice from Charlie Lek. None of them will be processed.”⁷⁷

⁶⁷ Stip. ¶ 27; JX-16, at 2; Tr. 313-14 (Lek). “DRS” stands for “Direct Registry System.”

⁶⁸ Tr. 310-11, 318-19 (Lek).

⁶⁹ Tr. 315, 3804-05 (Lek); JX-16, at 2.

⁷⁰ Stip. ¶ 28; JX-16, at 2; Tr. 315-16 (Lek).

⁷¹ Stip. ¶ 29; JX-16, at 1; Tr. 317-18 (Lek). Before receiving Lek’s email on December 23, 2019, Mainwald did not know of any pending matters (including, apparently, the proceeding that concluded with the Order Accepting Settlement) that might suspend Lek Securities’ acceptance of low-priced securities for deposit. Tr. 2229 (Mainwald).

⁷² Tr. 2189-90 (Mainwald).

⁷³ JX-16, at 1; Tr. 348 (Lek). Paulson & Co. was another introducing broker-dealer that executed its customers’ sales of low-priced securities through Lek Securities. Tr. 346-47 (Lek).

⁷⁴ CX-94; Tr. 2992-96 (Fraunhoffer).

⁷⁵ Stip. ¶ 30; Tr. 350 (Lek), 2042 (Zukas).

⁷⁶ Tr. 3811 (Lek).

⁷⁷ Stip. ¶ 31; JX-31 at 1.

E. The Order Requires Lek Securities to Retain an Independent Consultant

The Order required that Lek Securities retain an Independent Consultant to conduct a comprehensive review of the firm's supervisory system and its compliance with AML requirements and obligations under Section 5 of the Securities Act of 1933 ("Securities Act") in connection with deposits and trading in low-priced securities, including:

- (i) customer onboarding;
- (ii) acceptance of low-priced securities for deposit, in certificate form or otherwise;
- (iii) customer trading of low-priced securities;
- (iv) the Firm's systems and controls for monitoring for, detecting, and investigating suspicious activity through the Firm; and
- (v) training of LSC staff regarding the foregoing subjects.⁷⁸

The Order provided that the Independent Consultant's review had to be completed within 160 days from when FINRA issued the Order on December 20, 2019. By that deadline, the Independent Consultant had to issue an Initial Report meeting these requirements:

(i) evaluate and address the adequacy of Respondent LSC's supervisory system and its compliance with [AML] rules and requirements . . . ; (ii) provide a description of the review performed and the conclusions reached; and (iii) as may be needed, make recommendations regarding how Respondent LSC should modify or supplement its processes, controls, policies, systems, procedures and training to manage its regulatory and other risks in relation to the adequacy of Respondent LSC's supervisory system and its compliance with [AML] rules and requirements . . .⁷⁹

Within 90 days of the Initial Report, Lek Securities was required to:

adopt and implement the recommendations of the Independent Consultant or, if it considers a recommendation to be, in whole or in part, unduly burdensome or impractical, propose an alternative procedure to the Independent Consultant designed to achieve the same objective. Respondent LSC shall submit such proposed alternatives in writing simultaneously to the Independent Consultant and FINRA ("Proposed Alternative Procedures").⁸⁰

⁷⁸ Stip. ¶ 17; JX-14, at 34-35; Tr. 258 (Lek).

⁷⁹ Stip. ¶ 18; JX-14, at 36; Tr. 268 (Lek).

⁸⁰ Stip. ¶ 19; JX-14, at 36-37; Tr. 268 (Lek).

Lek Securities did not submit any Proposed Alternative Procedures.⁸¹

Within 30 days after the Initial Report, Lek Securities had to submit an Implementation Report describing how the firm had implemented the Independent Consultant's recommendations.⁸² Lek Securities was required to "certify to FINRA that it has implemented the Independent Consultant's recommendations."⁸³ The firm's CEO (i.e., Lek) had to certify that it had in place policies, systems, and procedures to address and correct the alleged violations giving rise to the Order:

The Firm agrees that at the conclusion of the business line suspension referenced above, its Chief Executive Officer will certify in writing to FINRA that, based on reasonable and documented steps, (i) the Firm has fully complied with the business line suspension, (ii) any sales of low-priced securities during the suspension period were made in compliance with the requirements of Section 5 of the Securities Act of 1933, and (3) [sic] the Firm has in place policies, systems and procedures to address and correct the violations described in this Offer of Settlement.⁸⁴

Finally, Lek Securities had to retain the Independent Consultant "to conduct a follow-up review and submit a final report."⁸⁵ Lek Securities was required to adopt and implement recommendations in the Final Report within 30 days and inform FINRA in writing that it had done so.⁸⁶

Lek Securities chose and formally engaged the Independent Consultant on December 31, 2019.⁸⁷ The Independent Consultant obtained documents from Lek Securities and visited the firm's office in New York. He met with Lek, all members of the firm's Compliance Department, and the Chief Financial Officer ("CFO").⁸⁸ He discussed with Lek many proposed recommendations, and the firm began implementing some of them before the Initial Report.⁸⁹

⁸¹ Tr. 269 (Lek).

⁸² Stip. ¶ 24.

⁸³ Stip. ¶ 22.

⁸⁴ Stip. ¶ 23; JX-14, at 39-40.

⁸⁵ Stip. ¶ 25; JX-14, at 39.

⁸⁶ Stip. ¶ 26; JX-14, at 39; Tr. 272-73 (Lek).

⁸⁷ Stip. ¶ 32; JX-56; JX-57; Tr. 279, 372-73 (Lek).

⁸⁸ Stip. ¶ 33.

⁸⁹ Stip. ¶ 34.

The Independent Consultant was in daily communication with Lek.⁹⁰ Lek testified he was hands on and highly engaged with the Independent Consultant.⁹¹

F. Lek Shows a Keen Interest in Getting the Independent Consultant's Initial Report Issued

In January 2020, Lek Securities began to feel pressure from the firm's customers to resume its business line of liquidating low-priced securities for them. A representative of Customer E emailed Zukas asking, "When do you expect to begin reviewing [deposits] again?"⁹² A representative of Customer F emailed Zukas asking, "Wanted to check in and ask whether there has been an update to LEK accepting deposits again?"⁹³ In reply to this email Zukas stated, "We are hoping to be back to business this Friday. I will try to keep you posted as I hear anything."⁹⁴ The same day, Customer A sent Lek Securities the documents needed to open a new account for liquidating low-priced securities.⁹⁵ In reply to an inquiry from J.H. Darbie, Zukas emailed stating, "Status quo so far. [The administrative assistant] was told to come Monday. I don't have any details."⁹⁶

Lek knew Lek Securities' customers were concerned about being shut out of liquidating low-priced securities and were asking when the business line suspension would be lifted.⁹⁷ Lek understood that for this to happen, the firm had to have the Independent Consultant's Initial Report in hand and to implement all the recommendations.⁹⁸ Lek and Lek Securities also had to make certifications to FINRA.⁹⁹

So Lek expressed to the Independent Consultant a keen interest in reviewing the recommendations and getting the Initial Report issued. For example, Lek and the Independent Consultant had the following text message exchanges on Friday and Sunday, January 17 and 19, 2020:

- Independent Consultant to Lek, Friday, January 17, 2020, at 7:44 a.m.:
"Hi Charlie, unfortunately, I had to go back to Boston due to a family

⁹⁰ Tr. 381-82 (Lek).

⁹¹ Tr. 382, 403, 449 (Lek).

⁹² JX-36, at 1; Tr. 2052 (Zukas).

⁹³ JX-40.

⁹⁴ JX-40; Tr. 420-21 (Lek).

⁹⁵ JX-49, at 2-3; Tr. 429-30 (Lek).

⁹⁶ JX-45; Tr. 425 (Lek). Lek Securities' administrative assistant was responsible for handling paperwork related to customer deposits of low-priced securities.

⁹⁷ Tr. 398-99, 420 (Lek).

⁹⁸ Tr. 422-23 (Lek).

⁹⁹ Tr. 462 (Lek).

medical emergency. I apologize, but I will try to get my recommendations to you over the weekend. If not, then it will be Monday or Tuesday.”¹⁰⁰

- Lek to Independent Consultant, Friday at 8:22 a.m.: “Sorry to hear that Okay I understand. You could fax them to me if that would make the process more efficient as you may not have access to internet at the hospital.”¹⁰¹
- Lek to Independent Consultant, Friday at 6:00 p.m.: “I hope everything is Okay with your family. I wanted to kindly follow up and see if you had anything on the report and recommendations. I am getting some pressure and would really like to get something tangible.”¹⁰²
- Independent Consultant to Lek, Friday at 6:16 p.m.: “Will you be in the office on Monday morning?”¹⁰³
- Lek to Independent Consultant, Friday at 6:19 p.m.: “Yes I will be here Monday. If you have them earlier feel free to fax them across or just drop them into the secured drive.”¹⁰⁴
- Independent Consultant to Lek, Friday at 6:20 p.m.: “Will [it] be a regular workday in the office?”¹⁰⁵
- Lek to Independent Consultant, Friday at 6:23 p.m.: “Monday will be just me. But if I had the recommendation before Monday we could use Monday to go over them and provide feedback so we can efficiently implement.”¹⁰⁶
- Lek to Independent Consultant, Friday at 6:24 p.m.: “Dont [sic] want to be pushy but I am getting some pressure from employees and clients and people are worried.”¹⁰⁷

¹⁰⁰ JX-54, at 10; Tr. 384 (Lek).

¹⁰¹ JX-54, at 10; Tr. 384-85 (Lek).

¹⁰² JX-54, at 11; Tr. 387 (Lek).

¹⁰³ JX-54, at 11. Monday was Martin Luther King, Jr. Day, a federal holiday.

¹⁰⁴ JX-54, at 11.

¹⁰⁵ JX-54, at 11.

¹⁰⁶ JX-54, at 11; Tr. 387 (Lek).

¹⁰⁷ JX-54, at 11; Tr. 387 (Lek).

- Independent Consultant to Lek, Friday at 6:50 p.m.: “You’re not being pushy and I understand the pressure and worries. If I can get the recs to you on Sunday, then I will.”¹⁰⁸
- Lek to Independent Consultant, Sunday, January 19, 2020, at 1:44 p.m.: “I hope everything is okay. Please do let me know if you believe you can get me those recommendations today. This would make for an efficient meeting on Monday.”¹⁰⁹

At the time of these January 2020 text messages, the Independent Consultant had been on the job for 17 days, and the deadline to finish the Initial Report was four months away.¹¹⁰

The pressure mounted for getting the Initial Report done. Lek sent the Independent Consultant a text on Thursday, January 30, 2020 stating, “Would it be easier for your schedule if I came to your office in midtown.”¹¹¹ The Independent Consultant replied, “Right now, I’m focusing on writing the report.”¹¹² Thirty minutes later Lek texted, “Thank you for the update. Are we still meeting today?”¹¹³ The Independent Consultant answered, “I’m focused on the actual writing.”¹¹⁴ The Independent Consultant texted Lek later, “I plan to bring you a document around lunchtime/early afternoon. Working on that now.”¹¹⁵ Lek replied, “Looking forward. Call me if you need anything else in terms of data to review.”¹¹⁶

The next day, Lek texted the Independent Consultant, “What time are we meeting today.”¹¹⁷ An hour later, it was Lek again, “I would like to go to London this evening and would appreciate if we can finalize today.”¹¹⁸

¹⁰⁸ JX-54, at 12.

¹⁰⁹ JX-54, at 12.

¹¹⁰ Tr. 390-91 (Lek).

¹¹¹ JX-54, at 16.

¹¹² JX-54, at 16; Tr. 393 (Lek).

¹¹³ JX-54, at 16.

¹¹⁴ JX-54, at 16; Tr. 393 (Lek).

¹¹⁵ JX-54, at 21; Tr. 394 (Lek).

¹¹⁶ JX-54, at 21.

¹¹⁷ JX-54, at 21.

¹¹⁸ JX-54, at 22; Tr. 394 (Lek).

On Saturday, February 1, 2020, the Independent Consultant emailed Lek attaching a draft of the Initial Report.¹¹⁹ After Lek received the draft, he turned his attention to getting a final version issued. This led to these text messages:

- Lek to Independent Consultant, Sunday, February 2, 2020, at 9:16 a.m.: “Are we still on for a Monday completion date and submission.”¹²⁰
- Lek to Independent Consultant, Monday, February 3, 2020, at 8:54 a.m.: “I wanted to chase up and see when you will have the final report done for us.”¹²¹
- Lek to Independent Consultant, Monday at 11:27 a.m.: “Just wanted to kindly follow up and see if I could get a status update.”¹²²
- Independent Consultant to Lek, Monday at 11:46 a.m.: “Working to finalize. Is there a time when I can speak with Jeff [Tabak]?”¹²³
- Lek to Independent Consultant, Monday at 12:00 p.m.: “Yes. Definitely. Are you in NYC or Boston.”¹²⁴
- Independent Consultant to Lek, Monday at 12:55 p.m.: “Boston.”¹²⁵
- Lek to Independent Consultant, Monday at 1:03 p.m.: “Perhaps a phone call would suffice. Other than speaking to Jeff are we set with the final version.”¹²⁶
- Independent Consultant to Lek, Monday at 3:46 p.m.: “Having word processing clean it up.”¹²⁷

¹¹⁹ JX-59, at 1; Tr. 399 (Lek).

¹²⁰ JX-54, at 23; Tr. 402-03 (Lek).

¹²¹ JX-54, at 23.

¹²² JX-54, at 24.

¹²³ JX-54, at 24; Tr. 404-05 (Lek). Jeffrey Tabak was Lek Securities’ interim Chief Compliance Officer.

¹²⁴ JX-54, at 24.

¹²⁵ JX-54, at 24.

¹²⁶ JX-54, at 24; Tr. 405-07 (Lek).

¹²⁷ JX-54, at 24.

- Lek to Independent Consultant, Monday at 6:34 p.m.: “Okay please keep me updated. Really need the final version as I have to answer to shareholders. Formatting is not too important to me.”¹²⁸
- Independent Consultant to Lek, Monday at 6:35 p.m.: “Got it back at 6 pm, working on it now to send to you tonight.”¹²⁹
- Lek to Independent Consultant, Tuesday, February 4, at 11:37 a.m.: “I would appreciate the document in word format so I can use it to demonstrate the implementation of the recommendations.”¹³⁰

G. The Independent Consultant Issues the Initial Report

The Independent Consultant issued the Initial Report on Tuesday, February 4, 2020.¹³¹ The Initial Report contained 98 recommendations for Lek Securities to improve supervision and AML compliance for low-priced securities.¹³² In the Initial Report, the Independent Consultant noted the need for Lek Securities to update its WSPs to incorporate the latest guidance from FINRA’s Regulatory Notice 19-18, which “contains a number of potential red flags relating to the microcap securities business that are completely absent from previous regulatory guidance.”¹³³ Before the business line suspension could be lifted, it was necessary for the firm to implement the Independent Consultant’s recommendations. Although Lek Securities had 90 days after the Initial Report to implement these recommendations, the firm had an economic incentive to implement as soon as possible. Three days after the Initial Report, a customer of Lek UK sought to deposit low-priced securities with Lek Securities.¹³⁴

On February 10, 2020—six days after receiving the Initial Report—Lek tried to certify that Lek Securities had implemented all the Independent Consultant’s 98 recommendations. Lek sent a letter by express mail to FINRA stating that during the business line suspension, Lek Securities had complied with the suspension and with Section 5 of the Securities Act, and that it “has in place policies, systems and procedures to address and correct the violations described in this Offer of Settlement.”¹³⁵

¹²⁸ JX-54, at 24; Tr. 408 (Lek).

¹²⁹ JX-54, at 24.

¹³⁰ JX-54, at 25.

¹³¹ JX-60.

¹³² JX-60, at 7-49.

¹³³ JX-60, at 18-19.

¹³⁴ JX-46, at 1; Tr. 435-36 (Lek).

¹³⁵ Stip. ¶ 37; JX-61; Tr. 701-02 (Lek).

Over the next two days, Lek Securities accepted three deposits of low-priced securities.¹³⁶ The first of these deposits was of ETEK securities, made by Customer G. The firm accepted the deposit on February 11, 2020, and liquidated it from February 13 through February 24, 2020.¹³⁷ The second was a deposit of PNATD securities by Customer H, which the firm accepted on February 12, 2020, and liquidated from February 14 through February 24, 2020.¹³⁸ The third was a deposit of GSPE securities by Customer I, which the firm accepted on February 11, 2020.¹³⁹ Lek also emailed Customer A stating, “We are up and running. Please let me know where we stand in the process in terms of opening online. In addition, we will need some additional paperwork. Please reach out to me to get this done.”¹⁴⁰

FINRA’s Department of Enforcement informed Lek Securities’ outside counsel on February 12, 2020, that the business line suspension could not be lifted based on Lek’s letter from two days before.¹⁴¹ Enforcement stated, “We are not sure what it [Lek’s letter] intends to accomplish, but the business line suspension remains in effect because the firm has not fulfilled the predicate for lifting the suspension.”¹⁴² So Lek sent FINRA a second letter, to “certify that LSC has implemented the recommendations of the Independent Consultant as described in the Settlement Agreement.”¹⁴³ In this letter Lek stated, “The consultant did a very thorough review and submitted 98 recommendations. We have worked tirelessly to quickly and meticulously implement all of the recommendation [sic], so I feel entirely comfortable certifying this to FINRA.”¹⁴⁴

H. Lek Securities and Lek Submit an Implementation Report

Lek Securities and Lek submitted a 65-page Implementation Report to FINRA and the Independent Consultant on March 4, 2020.¹⁴⁵ The Implementation Report described what Lek Securities had done to implement the 98 recommendations in the Initial Report and represented that, by February 10, 2020, the firm had implemented all 98 recommendations.¹⁴⁶ As an exhibit to the Implementation Report, Lek attached a red-line version of Lek Securities’ WSPs to reflect

¹³⁶ Tr. 466 (Lek).

¹³⁷ Tr. 3023-24 (Fraunhoffer); CX-10, at 1-3.

¹³⁸ Tr. 3024-25 (Fraunhoffer); CX-10, at 4-6.

¹³⁹ Tr. 3025 (Fraunhoffer); CX-10, at 7.

¹⁴⁰ JX-49, at 1; Tr. 434-35 (Lek).

¹⁴¹ JX-62, at 1; Tr. 467 (Lek).

¹⁴² JX-62, at 1.

¹⁴³ Stip. ¶ 38; JX-63, at 2.

¹⁴⁴ Stip. ¶ 39; JX-63, at 1.

¹⁴⁵ Stip. ¶ 40; JX-65; JX-71; Tr. 468-69, 702-03 (Lek).

¹⁴⁶ Stip. ¶ 41; JX-65; Tr. 470 (Lek).

edits he had made in response to the recommendations.¹⁴⁷ Lek made the final edits to the WSPs the same day he sent the Implementation Report to FINRA.¹⁴⁸

I. The Independent Consultant Has Trouble Getting Access to the Implementation Report

The Independent Consultant's Final Report was due December 20, 2020.¹⁴⁹ The Independent Consultant, however, did not meet this deadline. First, the Independent Consultant struggled to access the Implementation Report and other documents in Lek Securities' shared drive. The Independent Consultant emailed Lek in May 2020 asking, "can you send me the document we discussed relating to the adoption of the recommendations?"¹⁵⁰ Ten days later, Lek uploaded the Implementation Report to Lek Securities' shared document drive for the Independent Consultant to access.¹⁵¹ Lek emailed him, "I have loaded the ZIP File to the secure storage area for your review."¹⁵² The Independent Consultant replied to Lek's email, "I'll take a look and get back to you."¹⁵³

According to Lek, from May through August 2020, the Independent Consultant lacked access to Lek Securities' shared document drive. At the end of this four-month period, the Independent Consultant emailed an Information Technology employee of Rox Systems Inc. ("Rox Systems") stating, "I am now unable to access the shared drive you set up for me in December."¹⁵⁴ Three months later he emailed the employee, "We've tried the PowerShell from multiple angles on our end without success. Can you recreate or resend what works on your end?"¹⁵⁵ On December 4, 2020, he emailed Lek asking, "Are you free to speak on Sunday?"¹⁵⁶ Lek testified that in a phone call the same day, the Independent Consultant informed Lek he still needed access to the Implementation Report.¹⁵⁷ Lek testified that when they spoke on Sunday,

¹⁴⁷ JX-66; Tr. 471 (Lek).

¹⁴⁸ JX-70; Tr. 477 (Lek).

¹⁴⁹ Tr. 726 (Lek).

¹⁵⁰ JX-74, at 1.

¹⁵¹ Tr. 1605 (Lek); JX-74, at 1.

¹⁵² JX-74, at 1; Tr. 3814-15 (Lek).

¹⁵³ JX-74, at 1; Tr. 3815 (Lek).

¹⁵⁴ JX-84, at 10; Tr. 3816-17 (Lek). Rox Systems provided information technology services to Lek Securities, including technology for the electronic execution of trade orders. Lek's father, Samuel Lek, owned Rox Systems. Tr. 4307 (Lek).

¹⁵⁵ JX-84, at 9; Tr. 3819-20 (Lek).

¹⁵⁶ JX-410, at 1; Tr. 1622-23 (Lek).

¹⁵⁷ Tr. 1623 (Lek).

the Independent Consultant proposed a three-phased consulting and review project that would require 230 hours for completion of the Final Report.¹⁵⁸

J. Lek Securities, Lek, and the Independent Consultant Wage a Fee Dispute

Another reason the Independent Consultant's Final Report was delayed was because of a fee dispute. On March 19, 2020, the Independent Consultant sent Lek Securities a bill for services related to the Initial Report.¹⁵⁹ The total bill was \$135,585 for services and \$6,785 for expenses.¹⁶⁰ Lek testified that he telephoned the Independent Consultant and challenged the bill as excessive and the billing descriptions vague.¹⁶¹ The Independent Consultant emailed Lek two weeks later but did not mention Lek's objections; instead the Independent Consultant stated, "as we discussed yesterday, you can pay your bill in two installments. We prefer that the first payment be sent today and the second be received prior to April 30."¹⁶² Soon after, Lek Securities paid \$72,000 for the work the Independent Consultant had done.¹⁶³

In December 2020, the Independent Consultant emailed Lek stating no work would be done on the Final Report until Lek Securities paid the bill in full:

As a follow up to yesterday's discussion, I have been advised by [the Consulting Firm's] inside counsel that we must be pencils down on the engagement until such time as [the Consulting Firm's] outstanding invoices, which were due more than eight months ago, are paid in their entirety. Further, though we have held off including our expenses as a courtesy, given the severe tardiness of these invoices, we will be re-issuing invoices to include these amounts. . . .

In light of the past due amounts, and the discussions we had regarding the contents of my report, [the Consulting Firm] has also instructed me to obtain a \$40,000 retainer prior to completion of the report. . . .

I reiterate that the report that I prepare and submit to FINRA will contain my independent assessment and will not be designed or drafted otherwise.¹⁶⁴

¹⁵⁸ Tr. 1626 (Lek).

¹⁵⁹ JX-72; Tr. 713 (Lek).

¹⁶⁰ JX-72, at 3; Tr. 713 (Lek).

¹⁶¹ Tr. 714-15, 1855-56 (Lek).

¹⁶² JX-73; Tr. 713 (Lek). Lek disputes that he and the Independent Consultant discussed the idea of Lek Securities paying the bill in two installments. Tr. 1851 (Lek).

¹⁶³ Tr. 1602 (Lek).

¹⁶⁴ JX-76, at 7. The "Consulting Firm" was the consulting firm with which the Independent Consultant was associated. JX-57, at 1-2.

In reply to this email Lek stated, “Please call me.”¹⁶⁵

Over the next week, the parties reiterated their positions on the fee dispute, as can be seen in the following electronic communications:

- Text message from Lek to the Independent Consultant, December 12, 2020: “The report is due soon and its imperative you can connect to the system again. We need a path forward and we need communication.”¹⁶⁶
- Email from Independent Consultant to Lek, December 14, 2020: “Once again, the path forward begins with Lek Securities paying the outstanding invoice and providing the retainer. . . . Further work cannot begin until Lek Securities resolves these issues (and pays outstanding expenses). . . . There can be no conditions or preconditions as to what [the Consulting Firm] prepares as a Final Report, including [the Consulting Firm’s] decision whether to issue any further recommendations.”¹⁶⁷
- Email from the Consulting Firm’s inside counsel to Lek, December 14, 2020: “To confirm, I have advised [the Independent Consultant] that he is pencils down on this engagement until our receivable has been fully collected.”¹⁶⁸
- Email from Lek Securities’ CFO to the Consulting Firm’s inside counsel, December 14, 2020: “Pencils down seems incredibly unreasonable given the lack of detail in the attached invoice as well as the difference between estimated (budgeted) hours and actual hours. Our expectations were that this project would take far fewer hours, and then we receive a bill that does not help us to reconcile why these additional hours were necessary.”¹⁶⁹
- Email from the Consulting Firm’s inside counsel to Lek Securities’ CFO, December 14, 2020: “[I]t is customary for any expert/consultant to use

¹⁶⁵ JX-76, at 5-6; Tr. 737 (Lek). Lek’s reply email was one of several communications showing that he preferred to avoid creating a written record of his discussions with the Independent Consultant about the fee dispute and Final Report.

¹⁶⁶ JX-54, at 29.

¹⁶⁷ JX-76, at 6; Tr. 744 (Lek). In fairness, it should be noted that the record of this proceeding does not contain any emails or text messages showing any preconditions Lek attempted to impose on the content of the Final Report. Thus, the allegation that Lek did so is based on hearsay. It is not necessary for the Hearing Panel to make a finding on this issue. The Hearing Panel did not factor this unsubstantiated allegation into its determinations in this Decision.

¹⁶⁸ JX-76, at 5.

¹⁶⁹ JX-76, at 4; Tr. 746-47 (Lek).

vague language on an invoice. . . . But, to the extent that you had any issue with the contract, you agreed that you would advise us within 30 days of the receipt of the invoice.”¹⁷⁰

- Email from Lek Securities’ CFO to the Consulting Firm’s inside counsel, December 14, 2020: “Rather than go back and forth via email, can you provide your availability this week for a call?”¹⁷¹
- Email from the Consulting Firm’s inside counsel to Lek Securities’ CFO, December 14, 2020: “I am happy to speak with you, but as I set forth below, our position is immovable.”¹⁷²
- Email from Independent Consultant to Lek, December 17, 2020: “[H]ere is the scope of how [the Consulting Firm] views its responsibilities as Independent Consultant and its budget estimate. . . . In discussions with you as Lek’s CEO, it appears that Lek may have a different understanding of the Independent Consultant’s role. [The Consulting Firm] does not agree that the Final Report ‘should be a one pager’ or that the Final Report is simply to provide whether LSC’s records reflect that it has incorporated the 98 recommendations. In addition to reviewing compliance with the letter and spirit of the 98 Recommendations, [the Consulting Firm] expects that LSC will be [able to] demonstrate that its implementation and measures in the areas set forth in the Consent Order in the 10+ months since the February 4, 2020 Initial Report has furthered its compliance. . . . For the Final Report, [the Consulting Firm] estimates that reviewing Lek’s 65 page March 3, 2020 report and assessing its compliance, point by point (‘Phase I’) should take approximately 60-130 hours.”¹⁷³

K. Lek Securities, Lek, and the Independent Consultant Miss Several Deadlines for the Final Report

The circumstances described above caused the parties to miss the December 20, 2020 deadline to submit the Final Report. Two days before the deadline, Lek telephoned a supervisor in FINRA’s Department of Enforcement to inform him that Lek Securities would not meet it.¹⁷⁴ Three days later, the Independent Consultant emailed the supervisor stating, “A significant portion of [the Consulting Firm’s] invoice to Lek for the work I performed in preparing and

¹⁷⁰ JX-76, at 3; Tr. 748-49 (Lek).

¹⁷¹ JX-76, at 3.

¹⁷² JX-76, at 2.

¹⁷³ JX-77, at 1-2; Tr. 754-55 (Lek). Lek disputes that he told the Independent Consultant he wanted the Final Report to be a “one-pager.” Tr. 1646 (Lek).

¹⁷⁴ Tr. 1635 (Lek).

writing my Initial Report has remained unpaid for more than nine months.”¹⁷⁵ The Independent Consultant complained that Lek had “suggested that the scope of any further report is merely confirming that Lek has implemented the recommendations of the initial report and it should be a quick ‘one pager.’”¹⁷⁶ The supervisor emailed Lek encouraging him to resolve the fee dispute:

[T]he reason for the delay is a fee dispute between the Independent Consultant and LSC. . . . We strongly encourage LSC to resolve its fee dispute with the Independent Consultant so that LSC can comply with its obligations under the Order. . . . We expect the Independent Consultant to conduct the required review and consideration of further recommendations . . . without conditions or undue influence related to billing disputes or any other matter outside the substantive issues raised by the review.¹⁷⁷

Still, as of the end of 2020, Lek Securities had paid only half the fees the Independent Consultant had charged for the Initial Report.¹⁷⁸ On January 5, 2021, Lek emailed the Independent Consultant stating, “Let me know when you are available for a call. We need to find a path forward. I am troubled by your comments suggesting that I might have tied payment of your invoices to the content of the report.”¹⁷⁹ The Independent Consultant replied to this email by asking for payment of the outstanding invoice:

The “path forward” begins with Lek Securities paying the outstanding invoice and providing the retainer. . . . Further, there was, and is, no misunderstanding as to the position you took on paying the outstanding bill if the Final Report was “satisfactory” to you with no new recommendations.¹⁸⁰

Lek responded, “Please call me so we can discuss. We need to have a line of communication open.”¹⁸¹ The next day, the Independent Consultant reiterated that Lek Securities had to pay the outstanding invoice:

We have repeatedly communicated to you the “path forward”—you need to pay the outstanding invoice as per Lek Securities’ agreement with [the Consulting Firm] and provided [sic] a retainer. Until the outstanding invoice is paid and a retainer

¹⁷⁵ JX-78, at 1.

¹⁷⁶ JX-78, at 1.

¹⁷⁷ JX-79; Tr. 758-59, 1640-41 (Lek).

¹⁷⁸ JX-80; Tr. 759 (Lek).

¹⁷⁹ JX-82, at 8.

¹⁸⁰ JX-82, at 7-8; Tr. 762 (Lek).

¹⁸¹ JX-82, at 7.

provided, I cannot perform additional work toward the preparation of a Final Report, let alone prepare that Final Report.¹⁸²

Lek replied to this email, “I would appreciate a call.”¹⁸³ This call took place, and the Independent Consultant summarized it in an email to Lek:

Unfortunately, as I told you on our call several times, I did not hear anything from you about paying the bill or providing a retainer. I brought this up repeatedly and was met with complete silence each time.

Finally, you stated that you are not trying to influence the content of my Final Report. That is positive. As I have written to you and told you and reiterated again today, there can be no conditions or preconditions on any of the work I do as independent consultant.¹⁸⁴

Then Lek sought help from the FINRA supervisor. He emailed the supervisor on January 21, 2021, stating, “Although I recognize that it is unusual to substitute consultants, I nevertheless ask for FINRA’s approval to do exactly this. It has proven almost impossible to deal with [the Independent Consultant].”¹⁸⁵ Lek also requested a 30-day extension of the deadline for the Final Report.¹⁸⁶ In reply, the supervisor stated FINRA would not agree to a change of Independent Consultants:

FINRA does not agree to allow Lek Securities to change its independent consultant. . . . To allow Lek Securities additional time to submit the final report, FINRA agrees to extend the due date for the report by 60 days from the date of this email.¹⁸⁷

Two weeks later, Lek Securities paid the Independent Consultant \$71,185 in outstanding fees and a retainer of \$40,000.¹⁸⁸ Yet the Final Report remained a work-in-progress. Lek testified he telephoned the FINRA supervisor and expressed his concern that he could not reach the Independent Consultant.¹⁸⁹ The same day, the Independent Consultant emailed Lek stating, “I am sick and will be back to you early next week.”¹⁹⁰ When Lek did not hear from the

¹⁸² JX-82, at 6; Tr. 763-64 (Lek).

¹⁸³ JX-82, at 5.

¹⁸⁴ JX-82, at 1; Tr. 765 (Lek).

¹⁸⁵ JX-412, at 3; Tr. 1642-43 (Lek).

¹⁸⁶ JX-412, at 3.

¹⁸⁷ JX-412, at 1; Tr. 1643-44 (Lek).

¹⁸⁸ JX-83, at 1-2; Tr. 770 (Lek).

¹⁸⁹ Tr. 3821-22 (Lek).

¹⁹⁰ JX-413; Tr. 1646-47 (Lek).

Independent Consultant for four days, he telephoned the FINRA supervisor and complained.¹⁹¹ Then, the Independent Consultant could not get access to documents on Lek Securities' shared drive. The Independent Consultant emailed the Information Technology employee of Rox Systems seeking help:

We tried your suggestion and our IT department spent considerable time on this. The result is the same, namely that the PowerShell will not run, even via my cell phone provifer's [sic] hotspot. If there's another way for you to enable a shared drive, that would be helpful.¹⁹²

Two days later, the Independent Consultant emailed Lek stating, "below are my first twenty questions for the Final Report. Please answer each of these and where indicated, please provide relevant documents."¹⁹³ One of the Independent Consultant's questions was, "What persons are members of Lek's Compliance department? Please describe the duties of each such person."¹⁹⁴ In response, Lek attached a Lek Securities organizational chart showing Jeffrey Tabak was CCO, Andrew Shapiro was Compliance Officer, and Jessie Quintana was Compliance Administrator.¹⁹⁵

Because the Independent Consultant could not get access to Lek Securities' shared drive, the parties decided that Lek would upload requested documents to the Consulting Firm's shared drive, which used the software Kiteworks. The Consulting Firm's inside counsel emailed Lek stating, "Please create an account on kiteworks, and use this link to upload your documents. Please be advised that given your past payment issues, [the Independent Consultant] will not release his report until all invoices are paid."¹⁹⁶

These delays required that Lek Securities seek another extension of the deadline for the Final Report. The FINRA supervisor emailed Lek stating, "Your request for a three-week extension is granted."¹⁹⁷ Under this extension, the deadline for the Final Report was April 19, 2021.¹⁹⁸ The same day as the FINRA supervisor's email, the Independent Consultant emailed Lek, "Please provide all documents created from March 4, 2020 to the present as to the following." There followed a list of 13 categories of documents.¹⁹⁹

¹⁹¹ Tr. 3823 (Lek).

¹⁹² JX-85, at 6; Tr. 1650-51 (Lek).

¹⁹³ JX-86, at 1.

¹⁹⁴ JX-86, at 1; Tr. 774 (Lek).

¹⁹⁵ JX-86, at 6; Tr. 776 (Lek).

¹⁹⁶ JX-85, at 2; Tr. 1653-54 (Lek).

¹⁹⁷ JX-417, at 1; Tr. 1656 (Lek).

¹⁹⁸ Tr. 802 (Lek).

¹⁹⁹ JX-418, at 1-2; Tr. 1658-59 (Lek).

Lek received an email from the Consulting Firm's Information Technology team on March 26, 2021, informing him that his account at Kiteworks had been locked.²⁰⁰ This prevented him from uploading the documents requested by the Independent Consultant. Lek regained access to Kiteworks 19 days before the extended deadline for the Final Report.²⁰¹

The Independent Consultant issued the Final Report on April 19, 2021.²⁰² The Final Report found areas in which Lek Securities had failed to implement the recommendations of the Initial Report. The Independent Consultant made three new recommendations: (1) Lek Securities voluntarily reimpose the business line suspension set forth in the Order and maintain this suspension indefinitely; (2) the firm hire an experienced, full-time CCO with experience in low-priced securities compliance who would be granted independence and authority to run the compliance program; and (3) all employees in the Compliance Department be registered with FINRA within 90 days.²⁰³

L. Lek Securities' Anti-Money Laundering Compliance Officer and Chief Compliance Officer

The person whom Lek Securities represented to be the firm's AMLCO was not, in fact, the firm's AMLCO. Lek filed a Continuing Membership Application ("CMA") on behalf of Lek Securities in October 2019. In this CMA, Lek represented that Jeffrey Tabak served as the firm's AMLCO and would continue to do so.²⁰⁴ Similarly, the WSPs identified Tabak as AMLCO.²⁰⁵ In contrast, in January 2020 Lek informed the Independent Consultant that he was AMLCO.²⁰⁶

Under the WSPs, the AMLCO was responsible for: (1) monitoring the firm's customers to detect and prevent money laundering; (2) reviewing and investigating suspicious transactions referred by employees; and (3) determining whether to file a Suspicious Activity Report ("SAR").²⁰⁷ Before the settlement that led to the Order, Samuel Lek was the CEO, CCO, and

²⁰⁰ JX-419; Tr. 1660 (Lek).

²⁰¹ JX-420, at 1; Tr. 1661-62 (Lek).

²⁰² Tr. 1664 (Lek); JX-89.

²⁰³ JX-89, at 29.

²⁰⁴ Stip. ¶ 91. Tabak was designated Lek Securities' interim CCO when Samuel Lek vacated that position. Tr. 852 (Lek).

²⁰⁵ Stip. ¶ 92.

²⁰⁶ Tr. 448, 484 (Lek).

²⁰⁷ Stip. ¶ 89. The Bank Secrecy Act establishes program, recordkeeping, and reporting requirements for national banks, federal savings associations, and broker-dealers to ensure that these firms and institutions have necessary controls in place and provide the requisite notices (i.e., SARs) to law enforcement to deter and detect money laundering, terrorist financing, and other criminal acts. Office of the Comptroller of the Currency, Bank Secrecy Act (BSA), <https://www.occ.treas.gov/topics/supervision-and-examination/bsa/index-bsq>. Under the Bank Secrecy Act, financial institutions and broker-dealers are required to file SARs whenever (1) their depositors or customers engage in cash transactions exceeding \$10,000 (daily aggregate amount), or (2) they become aware of activity that might signal criminal activity such as money laundering or tax evasion. Office of the Comptroller of the Currency,

AMLCO of Lek Securities. These multiple roles, coupled with Samuel Lek’s ownership of the firm, created a potential conflict of interest.

Lek admits that Tabak was not AMLCO as of October 2019. According to Lek, Tabak did not become AMLCO immediately because he wanted a higher salary in exchange for this position.²⁰⁸ Tabak became AMLCO in January 2021—more than a year after Samuel Lek’s departure from Lek Securities.²⁰⁹ Tabak testified he was not offered the position for nearly a year.²¹⁰ Based on these facts, the Hearing Panel finds that no one served as AMLCO of Lek Securities for at least a year.

The position of CCO at Lek Securities was also vacant when Samuel Lek left the firm. Samuel Lek arranged for Tabak to become interim CCO beginning in September 2019.²¹¹ Lek informed the Independent Consultant that Tabak was interim CCO and the firm was searching for a permanent one.²¹² The Independent Consultant encouraged Lek to hire a permanent, full-time CCO.²¹³ Shortly after Lek issued the Implementation Report, Lek Securities made Tabak the permanent CCO.²¹⁴ But Tabak had additional roles and responsibilities that meant he was less than a full-time CCO. He conducted a hedge fund and options trading business as outside business activities.²¹⁵ Tabak made it clear to Lek that he would continue his other roles and responsibilities even as he served as permanent CCO.²¹⁶

In the Implementation Report, Lek recognized that Tabak had additional roles and responsibilities:

While the Firm is operating with a highly experienced compliance executive as interim CCO, this experienced executive has additional roles and responsibilities. We recognize that our business, including our microcap securities business, requires a full-time CCO whose sole focus is directed to our compliance program. . . . We have been actively seeking to identify a Chief Compliance Officer. The

Suspicious Activity Reports (SAR), <https://www.occ.treas.gov/topics/supervision-and-examination/bank-operations/financial-crime/suspicious-activity-reports/index-suspicious-activity-reports.html>.

²⁰⁸ Tr. 209, 246 (Lek).

²⁰⁹ Tr. 211, 781 (Lek).

²¹⁰ Tr. 2463-64, 2493-94 (Tabak).

²¹¹ Stip. ¶ 93.

²¹² Tr. 442 (Lek).

²¹³ Tr. 443 (Lek).

²¹⁴ Stip. ¶ 94. When Tabak left Lek Securities in August 2022, Lek became the firm’s CCO and AMLCO. Stip. ¶ 6.

²¹⁵ Tr. 220 (Lek).

²¹⁶ Tr. 2445 (Tabak).

[Independent Consultant] was of the opinion that we should continue to pursue our search for a full-time CCO approved by management.²¹⁷

The Implementation Report also stated, “The Firm is interviewing for a permanent CCO actively, seeking a compliance executive with significant industry experience and a strong fit for a small/midsize broker-dealer culture.”²¹⁸

In January 2020, the Independent Consultant was led to believe that Lek Securities had five employees in its Compliance Department: Tabak, Andrew Shapiro, Jesse Quintana, Ramute Zukas, and an administrative employee of the firm.²¹⁹ Yet the Compliance Department really consisted of three employees: Tabak, Shapiro, and Quintana.²²⁰ The Hearing Panel finds this was thin staffing indeed. As already stated, besides being in the Compliance Department, Tabak had his other roles and responsibilities.²²¹ Tabak was not part of Lek Securities’ management.²²² It also seems Tabak had little interaction with Lek. For example, Tabak attempted to schedule a meeting with Lek to discuss exception reports for low-priced securities, but did not succeed.²²³

Although Andrew Shapiro was a senior Compliance Officer in the firm, he did not process or review deposits of low-priced securities.²²⁴

M. Lek Securities’ Supervisory System for Low-Priced Securities: The Deposit Phase

Lek Securities offered its customers the ability to deposit and trade low-priced securities through its independent order execution and clearing services.²²⁵ Lek Securities’ customers communicated their orders through the firm’s front-end management system or by telephone.²²⁶ All customer orders to sell low-priced securities were unsolicited.²²⁷ The firm had about a dozen

²¹⁷ JX-65, at 60; Tr. 705 (Lek).

²¹⁸ JX-65, at 5; Tr. 708-09 (Lek).

²¹⁹ JX-60, at 5; Tr. 454-55 (Lek).

²²⁰ JX-86, at 6; Tr. 427, 455 (Lek), 2372-73 (Shapiro), 2607 (Faulconbridge). Witness Faulconbridge is a former employee of Lek Securities.

²²¹ Tr. 220 (Lek).

²²² Tr. 222 (Lek).

²²³ Tr. 2454 (Tabak).

²²⁴ Tr. 827 (Lek).

²²⁵ Stip. ¶ 11.

²²⁶ Stip. ¶ 12.

²²⁷ *Id.*

customers that deposited and liquidated low-priced securities. On top of the front-end management system, Michael Mainwald could liquidate securities as Head Trader.²²⁸

Each time a customer deposited low-priced securities, Lek Securities opened a unique “case” for that deposit.²²⁹ The sole business the low-priced customers did through the firm was depositing and liquidating low-priced securities.²³⁰ The firm relied on the OTC Markets website, OTCMarkets.com,²³¹ as a source for negative information about the security or the issuer.²³² Lek Securities had training materials that explained how OTCMarkets.com worked and the tools available on that website.²³³ One of these tools was OTCMarkets.com’s Caveat Emptor or “buyer beware” sign, represented by a skull and crossbones.²³⁴

Before a customer could deposit low-priced securities at Lek Securities, it had to be approved to open an account. Lek Securities conducted the account opening process online through the firm’s website.²³⁵ Ramute Zukas provided the customer with assistance and answered its questions.²³⁶ Lek Securities had an account-opening questionnaire the low-priced securities customer had to complete.²³⁷ The customer was also required to submit a statement of source of funds and wealth.²³⁸ Each individual beneficial owner of the customer had to fill out an individual new account form.²³⁹ Lek Securities conducted a background check on the customer by outsourcing this function to the firms McDonald Information Services and TINCheck.²⁴⁰

Lek Securities maintained a manual titled “*Securities Manual—Microcap Securities Processing*” (“Certificate Processing Manual”), which the firm used as part of its compliance process for low-priced securities.²⁴¹ This Certificate Processing Manual called for “Enhanced Due Diligence” for onboarding low-priced securities customers.²⁴² To fund a new account, the

²²⁸ Stip. ¶¶ 11-12, 96-97.

²²⁹ Tr. 366 (Lek), 2606 (Faulconbridge).

²³⁰ Tr. 161-62 (Lek).

²³¹ OTC Markets Group Inc., <https://www.otcmarkets.com>.

²³² Tr. 370 (Lek).

²³³ JX-469; Tr. 3887-88 (Lek).

²³⁴ JX-517; Tr. 3887 (Lek).

²³⁵ Tr. 777 (Lek).

²³⁶ Tr. 777-78 (Lek).

²³⁷ Tr. 3633-34 (Lek).

²³⁸ Tr. 3641-42 (Lek); RX-16.

²³⁹ Tr. 3643-44 (Lek); RX-14.

²⁴⁰ Tr. 3648 (Lek).

²⁴¹ Tr. 3656 (Lek); JX-425.

²⁴² Tr. 3656-58 (Lek); JX-425, at 5.

customer was required to deposit \$100,000 in cash.²⁴³ Zukas testified that she conducted her own review of customers in gathering documents in the onboarding process, but Lek took over onboarding in the enhanced due diligence phase.²⁴⁴ A new account in low-priced securities could not be opened without the approval of both Lek and Tabak.²⁴⁵

Lek Securities recognized that the deposit of low-priced securities was a higher risk business for the firm.²⁴⁶ When an approved customer sought to make a deposit of low-priced securities, Lek Securities required the customer to supply information about prior owners of the security as well as documents supporting any claimed exemption from the registration requirement of Section 5 of the Securities Act. The firm received low-priced securities either through the deposit of physical stock certificates or in electronic form by DWAC or DRS.²⁴⁷

Upon the deposit of low-priced securities, Lek Securities required the customer to complete a Deposit Securities Request Questionnaire (“DSRQ”) to show, among other things, that the securities qualified for an exemption from the registration requirement.²⁴⁸ The DSRQ directed the customer to supply information about its status as shareholder, the security, prior owners of the security, and any restrictions on resale.²⁴⁹ One of the questions in the DSRQ required the customer to disclose whether it intended to sell the security within the next three months.²⁵⁰ Another question asked how many additional shares the customer and its affiliates controlled.²⁵¹ A Lek Securities “Deposit Specialist” ensured that the customer submitted the necessary supporting documents and answered all questions in the DSRQ.²⁵² The Deposit Specialist entered information from the DSRQ into the Certificate Processing Program.²⁵³ Before Lek Securities accepted a deposit of securities, the documents in the case file had to be reviewed by Lek, the Deposit Specialist, and an administrative employee.²⁵⁴

Lek UK was a “customer” of Lek Securities and had an omnibus account at the firm.²⁵⁵ When a customer of Lek UK made a deposit of low-priced securities in its Lek UK account, it

²⁴³ Tr. 3659-60 (Lek).

²⁴⁴ Tr. 1991-93 (Zukas).

²⁴⁵ Tr. 1745 (Lek).

²⁴⁶ Tr. 1726 (Lek).

²⁴⁷ Tr. 169 (Lek).

²⁴⁸ Stip. ¶ 75; Tr. 3662 (Lek).

²⁴⁹ Stip. ¶ 76.

²⁵⁰ Tr. 3664-65 (Lek); JX-439, at 2.

²⁵¹ JX-439, at 2; Tr. 3665-66 (Lek).

²⁵² Stip. ¶ 77.

²⁵³ *Id.*

²⁵⁴ Tr. 2607 (Faulconbridge).

²⁵⁵ Tr. 2206 (Mainwald), 3671-72 (Lek).

was also required to submit a DSRQ.²⁵⁶ After the Lek UK customer completed the DSRQ, Lek Securities created a case for the deposit.²⁵⁷ Lek was the principal and supervisor who approved or rejected deposits of securities that customers made at Lek UK.²⁵⁸

N. Lek Controls Lek Securities' Supervisory System for the Deposit of Low-Priced Securities

All deposits of low-priced securities had to be approved by a registered principal who, in practice, was always Lek.²⁵⁹ The WSPs identified red flags of potential money laundering by low-priced securities customers. These red flags included:

- Shares “[w]ere issued by a shell company.”
- Shares “[w]ere issued by a company that has no apparent business, revenues or products.”
- Shares “[w]ere issued by a company whose SEC filings are not current, or incomplete or nonexistent.”
- Shares “[w]ere issued by a company that has been through several recent name changes or business combinations or recapitalizations.”
- “Officers or insiders of the issuer are associated with multiple penny stock issuers.”²⁶⁰

Another red flag was that the “[a]ccount is involved in microcap securities.”²⁶¹ Zukas testified that the red flags she looked for included: whether the issuer was a shell company; the issuer had no publicly filed financial reports; and the issuer had no visible business.²⁶² For Lek, the most significant indicia of a pump and dump were: the customer deposited a thinly traded security; the market price of the security spiked above the 20-day moving average; and the customer liquidated all its shares of the security.²⁶³ In searching for red flags, Lek Securities did

²⁵⁶ Tr. 3669 (Lek).

²⁵⁷ Tr. 3676 (Lek).

²⁵⁸ Tr. 4115 (Lek).

²⁵⁹ Stip. ¶ 82.

²⁶⁰ Stip. ¶ 83.

²⁶¹ Stip. ¶ 84. The SEC defines “microcap stocks” as “low-priced stocks issued by the smallest of companies.” Securities and Exchange Commission, *Microcap Stock: A Guide for Investors*, <https://www.sec.gov/reportspubs/investor-publications/investorpubsmicrocapstock>. Thus, this Decision considers “microcap” to be another word for a low-priced security.

²⁶² Tr. 2003-04 (Zukas).

²⁶³ Tr. 1826-27 (Lek).

not check social media for hyping or promotional activity.²⁶⁴ Lek limited his review to materials provided by OTCMarkets.com.²⁶⁵

Lek directly supervised Lek Securities' low-priced securities business line, including onboarding of customers, trading, and exception reports.²⁶⁶ Lek reviewed and approved all deposits of low-priced securities, and made the final determination whether a deposit would be allowed.²⁶⁷ Lek reviewed all items in the Certificate Processing Program.²⁶⁸ At the time of deposit, Lek executed a broker's representation letter, representing Lek Securities had made a reasonable inquiry to verify the issuer of the securities had more than nominal operations, and assets consisting of more than cash or cash equivalents.²⁶⁹ Many of the low-priced securities deposited by Lek Securities' customers originated from loans the customers had purportedly made to issuers in exchange for convertible promissory notes.²⁷⁰ A promissory note afforded the customer the option to convert the note—or the fragment of a note—into securities.²⁷¹ Lek Securities considered these customers to be nonaffiliated investors in startup companies.²⁷²

The Certificate Processing Program recorded Lek's approval of each deposit.²⁷³ No one in Lek Securities' Compliance Department reviewed the deposits.²⁷⁴

To determine whether a pump-and-dump scheme was in progress at the time of deposit, Lek relied on news articles posted on OTCMarkets.com and in news aggregators, and he looked at trading activity of the security.²⁷⁵ Lek noted in the Certificate Processing Program any promotional campaigns that were going on when the customer made the deposit.²⁷⁶ If a price or volume spike in a security occurred after the deposit, Lek expected the spike would generate an

²⁶⁴ Tr. 4167 (Lek).

²⁶⁵ Tr. 3711-15, 3884-85 (Lek).

²⁶⁶ Stip. ¶ 90; Tr. 237 (Lek).

²⁶⁷ Tr. 160, 180-82, 239 (Lek), 2614, 2621 (Faulconbridge).

²⁶⁸ Tr. 2620 (Faulconbridge).

²⁶⁹ JX-129; Tr. 1215-16 (Lek).

²⁷⁰ Tr. 164 (Lek).

²⁷¹ Tr. 166 (Lek).

²⁷² Tr. 783 (Lek).

²⁷³ Tr. 182 (Lek).

²⁷⁴ Tr. 1418 (Lek).

²⁷⁵ Tr. 1202 (Lek).

²⁷⁶ Tr. 1474 (Lek).

exception report when the customer entered a sell order.²⁷⁷ He did not think he had an obligation to review social media for promotional campaigns.²⁷⁸

According to Enforcement's expert witness, the deposit-related documents that Lek Securities maintained in its Certificate Processing Program were not adequate because suspicious circumstances as to a transaction could occur between the time of deposit and the time of trading.²⁷⁹ Lek Securities conducted its AML and compliance review at the time of deposit.

O. The Deposit Specialist

Lek Securities created the position of Deposit Specialist when Lek issued the Implementation Report. Lek thought of the position of Deposit Specialist as "an administrative kind of clerical-type role."²⁸⁰ Originally, Ramute Zukas specialized in processing deposits of low-priced securities.²⁸¹ But upon the hiring of the first Deposit Specialist, Zukas moved into the role of assisting new customers in the account-opening process, and was divested of responsibility for reviewing deposits of low-priced securities.²⁸² She had eight or nine years' experience processing such deposits.²⁸³ Lek decided that Zukas would no longer perform this function.²⁸⁴

Lek Securities' first Deposit Specialist was "DG," and the second was "BF." The Deposit Specialist worked directly with Lek to review deposits of low-priced securities.²⁸⁵ The Deposit Specialist was responsible for determining whether a press release or news article contained hype or spamming.²⁸⁶ Yet she reviewed only the most recent press release or news article posted on OTCMarkets.com.²⁸⁷ The Deposit Specialist reviewed the trading activity of the security for a spike or other abnormality—meaning, the market price or trading volume of the security had gone high or low.²⁸⁸

²⁷⁷ Tr. 1476-77 (Lek).

²⁷⁸ Tr. 1203 (Lek).

²⁷⁹ Tr. 2925-26 (Middlemiss).

²⁸⁰ Tr. 988 (Lek).

²⁸¹ Tr. 176 (Lek).

²⁸² Tr. 176-77 (Lek), 2027 (Zukas).

²⁸³ Tr. 2029 (Zukas).

²⁸⁴ Tr. 2031 (Zukas).

²⁸⁵ Stip. ¶ 95.

²⁸⁶ Tr. 2654-55 (Faulconbridge).

²⁸⁷ Tr. 2657-58 (Faulconbridge).

²⁸⁸ Tr. 2664 (Faulconbridge).

Lek Securities had one Deposit Specialist employed at one time.²⁸⁹ There were days when the Deposit Specialist reviewed up to 10 to 12 deposit packages.²⁹⁰ It usually took her 30 to 40 minutes to review a deposit package.²⁹¹ The firm's WSPs required her to ensure that no low-priced securities were deposited with the firm unless the customer had answered all questions in the DSRQ and supplied all the required documents. All answers were supposed to be verified.²⁹²

According to the Certificate Processing Manual, the Deposit Specialist was supposed to ensure the customer legally owned the security, and that all AML concerns were addressed.²⁹³ The Deposit Specialist was responsible for identifying red flags, determining whether the securities were exempt from registration (such as under SEC Rule 144), and reviewing recent news articles for potential promotional campaigns.²⁹⁴ When she identified potential misconduct, she was to escalate the issue to a compliance officer or Lek.²⁹⁵ Lek supervised the Deposit Specialist.²⁹⁶

The Deposit Specialist's review of a deposit package included looking at the DSRQ, the legal opinion letter, and wire transfer documents showing proof of payment for the security.²⁹⁷ The Deposit Specialist checked the electronic boxes in the Certificate Processing Program to show the customer was not an affiliate or distributor of the security. Yet to make this determination, she did not look at any information outside the deposit package.²⁹⁸ She did not perform a substantive review for red flags.²⁹⁹ This was contrary to the Certificate Processing Manual, which directed that she should perform a substantive review.³⁰⁰

The Deposit Specialist was supposed to determine whether the issuer of the deposited security was a shell company; she did so by checking the issuer's financial statements posted on OTCMarkets.com.³⁰¹ Yet the Deposit Specialist did not review the issuer to determine whether it

²⁸⁹ Tr. 2605-06 (Faulconbridge).

²⁹⁰ Tr. 2624 (Faulconbridge).

²⁹¹ Tr. 2627-28 (Faulconbridge).

²⁹² Stip. ¶ 78.

²⁹³ Stip. ¶ 79.

²⁹⁴ Stip. ¶ 80.

²⁹⁵ Stip. ¶ 81; Tr. 2732-33 (Faulconbridge).

²⁹⁶ Tr. 513 (Lek).

²⁹⁷ Tr. 2715 (Faulconbridge).

²⁹⁸ Tr. 2666-67 (Faulconbridge).

²⁹⁹ Tr. 2671, 2704 (Faulconbridge).

³⁰⁰ Tr. 2698-99 (Faulconbridge).

³⁰¹ Tr. 2674 (Faulconbridge).

had recently shifted market sectors.³⁰² When the security originated from a convertible promissory note, she briefly reviewed the note to verify the issuer and the amount.³⁰³ The Deposit Specialist was also responsible for reviewing the notice of conversion for the price at which the customer had converted the note into securities, but this review was brief at best.³⁰⁴

According to the Certificate Processing Manual, if the customer failed to answer one or more questions in the DSRQ, the Deposit Specialist was supposed to contact the customer to get the answers.³⁰⁵ The Manual warned that the Deposit Specialist was not supposed to rely solely on the customer's answers in the DSRQ.³⁰⁶ But it is unclear what source(s) of independent information she relied on, aside from OTCMarkets.com. The Certificate Processing Program displayed a tab enabling the Deposit Specialist to access FINRA Regulatory Notice 19-18, but she never clicked this tab.³⁰⁷

The Deposit Specialist was supposed to verify that the legal opinion letter correctly referred to the security, the name of the customer, and the price paid for the security.³⁰⁸ When she found an inaccuracy or inconsistency in the deposit package, she alerted Lek, and sometimes went back to the customer.³⁰⁹ The Deposit Specialist informed Lek when she found OTCMarkets.com had placed a Caveat Emptor on a security.³¹⁰ Yet there were occasions when Lek Securities approved deposits of low-priced securities that carried a Caveat Emptor.³¹¹

P. Lek Securities' Fees Charged to Low-Priced Securities Customers

Lek Securities generated revenue from its low-priced securities business line by assessing fees instead of charging commissions.³¹² The fee arrangement for each customer was a matter of negotiation.³¹³ Some fees were specific to the deposit of low-priced securities.³¹⁴ Most important, Lek Securities charged each low-priced securities customer a monthly fee of

³⁰² Tr. 2692 (Faulconbridge).

³⁰³ Tr. 2681 (Faulconbridge).

³⁰⁴ Tr. 2683 (Faulconbridge).

³⁰⁵ Tr. 2696-97 (Faulconbridge).

³⁰⁶ Tr. 2698 (Faulconbridge).

³⁰⁷ Tr. 2713-14 (Faulconbridge); JX-521, at 27.

³⁰⁸ Tr. 2717 (Faulconbridge).

³⁰⁹ Tr. 2720 (Faulconbridge).

³¹⁰ Tr. 2723 (Faulconbridge).

³¹¹ Tr. 2729 (Faulconbridge).

³¹² Tr. 149 (Lek).

³¹³ Tr. 145-46 (Lek).

³¹⁴ Tr. 147-48 (Lek).

\$25,000.³¹⁵ The terms of this fee were, if the customer’s trading activity in a given month did not generate fees for the firm of \$25,000 or more, the customer paid the difference needed to reach the \$25,000 level.³¹⁶ Thus, the customer had an economic incentive to liquidate low-priced securities on a monthly basis.

Besides the \$25,000 monthly fee, Lek Securities charged low-priced securities customers either a dematerialization fee or a DWAC fee.³¹⁷ The dematerialization fee applied when the firm accepted a physical stock certificate for deposit and had DTCC convert the certificate into electronic form—i.e., “dematerializing” the certificate.³¹⁸ The DWAC fee applied when the firm accepted a security in electronic form.³¹⁹ The amount of both the dematerialization fee and the DWAC fee was 4.5 percent of the principal amount of the deposit.³²⁰ Lek Securities determined this principal amount based on the previous day’s closing price on OTCMarkets.com.³²¹

Lek Securities kept the 4.5 percent dematerialization or DWAC fee even if the customer did not liquidate the deposit.³²² The fee remained at 4.5 percent even if the market price of the security declined between the time of deposit and the time of sale.³²³ The higher the market price at the time of deposit, the higher the dollar amount of the 4.5 percent fee.³²⁴ Lek Securities also charged an illiquidity fee when the firm needed to post margin with the National Securities Clearing Corporation (“NSCC”) to execute a sale of a low-priced security.³²⁵ Because of a February 2021 NSCC rule change that increased the fee Lek Securities had to pay to clear the sale of low-priced securities, Lek Securities implemented a “Lek Holdings Notes Program.” This program required certain low-priced securities customers to loan significant amounts of money to Lek Securities’ parent company, Lek Securities Holdings, to sell such securities through the firm.³²⁶

³¹⁵ Tr. 157-58 (Lek).

³¹⁶ Tr. 3646-47 (Lek).

³¹⁷ Tr. 149 (Lek).

³¹⁸ Tr. 152-53 (Lek).

³¹⁹ Tr. 154-56 (Lek).

³²⁰ Tr. 155-56, 1212-13 (Lek).

³²¹ Tr. 156 (Lek).

³²² Tr. 1213 (Lek).

³²³ Tr. 1214-15 (Lek).

³²⁴ Tr. 1417-18 (Lek).

³²⁵ Tr. 150 (Lek).

³²⁶ Tr. 926-39 (Lek).

Q. Lek Securities' Supervisory System for Low-Priced Securities: The Trading Phase

As Head Trader and COO, Michael Mainwald was responsible for monitoring liquidations transacted through Lek Securities.³²⁷ Using Lek Securities' front-end order management system, many of the firm's customers entered their own orders and directed orders to an exchange, market maker, dark pool, or other venue for execution.³²⁸

Lek Securities' WSPs required that all exception reports pertaining to trading in low-priced securities be reviewed by a designated principal, or by a registered representative with at least five years of experience.³²⁹ "[A]nything remarkable" in these reports was supposed to be recorded in a comment.³³⁰ In the Initial Report, the Independent Consultant found Lek Securities' exception reports to be deficient, which Lek acknowledged and blamed on "unfilled compliance staffing needs."³³¹ The Hearing Panel finds these deficiencies in Lek Securities' exception report system:

- About 99 percent of the time, Lek was the only person who reviewed exception reports relating to low-priced securities.³³² Lek responded to one of the Independent Consultant's recommendations by designating himself the "super reviewer," which meant he was supervising his own review of exception reports.³³³
- Three of Lek Securities' exception reports did not function properly. These were the exception reports for Caveat Emptor securities, corporate actions, and customer sales of securities within three months after the customer represented it would not sell the securities within three months.³³⁴ Lek knew the exception report for Caveat Emptor securities was not picking up Caveat Emptor securities. Lek testified, "That's something I wish I would have reconciled, yes."³³⁵
- Even when exception reports did function, Lek did not follow up with an investigation. For example, one of the exception reports that Lek

³²⁷ Stip. ¶ 96.

³²⁸ Stip. ¶ 97.

³²⁹ Stip. ¶ 85.

³³⁰ *Id.*

³³¹ JX-60, at 35; JX-65, at 46.

³³² Tr. 1004-06 (Lek).

³³³ Tr. 982-83 (Lek).

³³⁴ Tr. 3765, 3767, 3771 (Lek).

³³⁵ Tr. 4111 (Lek).

Securities created was “OTC symbols liquidated by more than one account last week.”³³⁶ For an eight-month period in 2020, all these exception reports had zero rows, meaning there was no documentation of any analysis performed.³³⁷

- When a Lek Securities employee opened an exception report on the Exception Report Viewer, the Viewer created the comment “Report Reviewed,” even if the employee did not substantively review the report.³³⁸

Lek Securities maintained a “Q6” automated risk system that applied limits to the execution of customer orders for sales of securities.³³⁹ If an order activated a Q6 rejection, Mainwald investigated the nature of the rejection.³⁴⁰ The Q6 system had a setting that could restrict or block a customer from trading.³⁴¹ Every order that came into Lek Securities had to pass through the Q6 system before it could be sent to another venue for execution.³⁴²

If the parameters caused the Q6 system to reject an order, that order was no longer valid and could not be executed.³⁴³ The parameters were updated automatically to account for such changed circumstances as the money available in the customer’s account to purchase securities.³⁴⁴ Yet the Q6 parameters also could be changed at the request of the customer—for example, if the customer wanted to increase its share size limit to enable an order to be executed.³⁴⁵ There were changes and updates to the parameters almost every day.³⁴⁶ As for trades executed through the Lek UK omnibus account, the Q6 system did not identify the customer of Lek UK that ordered the trade.³⁴⁷

³³⁶ Tr. 1810-11 (Lek).

³³⁷ Tr. 3039-40 (Fraunhoffer); CX-14, at 2-3.

³³⁸ Tr. 1020-21 (Lek).

³³⁹ Tr. 2201 (Mainwald).

³⁴⁰ Tr. 2203 (Mainwald).

³⁴¹ Tr. 2209 (Mainwald).

³⁴² Tr. 2214 (Mainwald).

³⁴³ Tr. 2223-24 (Mainwald).

³⁴⁴ Tr. 2218 (Mainwald).

³⁴⁵ Tr. 2220 (Mainwald).

³⁴⁶ Tr. 2222 (Mainwald).

³⁴⁷ Tr. 2919-20 (Middlemiss).

R. Specific Deposits of Low-Priced Securities at Lek Securities

In the hearing, Enforcement presented evidence pertaining to the following customer deposits of low-priced securities:

1. Organicell Regenerative Medicine, Inc.

This deposit was not accepted by Lek Securities. Customer J opened and funded an account at Lek Securities on October 16, 2020, and made a deposit of common stock issued by Organicell Regenerative Medicine, Inc. (“BPSR”).³⁴⁸ The firm grew suspicious of this deposit and rejected it.³⁴⁹ One of the grounds for suspicion was that Customer J had submitted a legal opinion letter signed by Attorney 1.³⁵⁰ Lek testified that this attorney was in the business of signing legal opinions for low-priced securities and was on the Prohibited Attorneys list posted by OTCMarkets.com.³⁵¹ Another ground for suspicion was that Customer J seemed to have little understanding of BPSR’s business activities. According to Lek, this seemed odd because Customer J was supposed to be an investor in the company.³⁵² Enforcement contends that the suspicious circumstances of Customer J’s deposit were present in other deposits of low-priced securities, but Lek Securities accepted these other deposits.

2. Bravatek Solutions, Inc.

In March and April, 2020, Customer A made these deposits of common stock issued by Bravatek Solutions, Inc. (“BVTK”):³⁵³

Case Opened Date	Customer	Number of Shares Deposited	Market Value at Deposit
March 13	Customer A	2,082,851	\$9,789
March 25	Customer A	2,289,079	\$5,723
April 3	Customer A	2,842,693	\$5,685
Totals		7,214,623	\$21,197

Customer A liquidated its BVTK securities from March 13 through September 30, 2020.³⁵⁴ In BVTK’s Annual Report on Form 10-K, filed with the SEC in June 2019, the

³⁴⁸ Tr. 783-84 (Lek).

³⁴⁹ Tr. 784 (Lek).

³⁵⁰ Tr. 784-85 (Lek).

³⁵¹ Tr. 789 (Lek). Other than Lek’s testimony, the parties did not present evidence that Attorney 1 was, in fact, on the Prohibited Attorneys list.

³⁵² Tr. 790 (Lek).

³⁵³ CX-15, at 1.

³⁵⁴ CX-15, at 10-13.

company stated its “business operations are oriented around the marketing and distribution of proprietary and allied security, defense and information security software, hardware and services (including telecom services).”³⁵⁵ BVTk had total assets of \$124,647, total current liabilities of \$8,797,321, and a negative net worth of \$8,672,674.³⁵⁶ BVTk had total sales of \$26,849, an operating loss of \$3,185,951, total other expenses of \$4,808,194, and a net loss of \$7,994,145.³⁵⁷ Over 20 days in April 2020, the market price of BVTk common stock increased from \$0.002 per share to \$0.01 per share—a five-fold increase.³⁵⁸ About a year before this price spike, BVTk had effected a reverse stock split that converted 10,000 pre-split shares of the company’s common stock into one post-split share.³⁵⁹

BVTk purported to expand its business model from security, defense, and information software to a preventive against COVID-19. In a February 2020 article titled “Bravatek Partners With Z Systems and Zoono to Combat Virus Outbreaks,” the trade periodical *Homeland Security Today* reported that BVTk had entered into a Strategic Alliance with Z Systems, the purported manufacturer of a proprietary antimicrobial coating supposed to be the “nearly perfect disinfectant.”³⁶⁰ The next day, BVTk announced this antimicrobial coating was 99.99 percent effective against COVID-19, and that this had been confirmed by independent laboratory tests.³⁶¹

3. Brewbilt Manufacturing Inc.

Over six days in May and June 2020, Customer F made these deposits of common stock issued by BrewBilt Manufacturing Inc. (“BBRW”).³⁶²

Case Opened Date	Customer	Number of Shares Deposited	Market Value at Deposit
May 28	Customer F	5,300,900	\$158,497
June 1	Customer F	5,682,700	\$210,260
June 3	Customer F	6,673,500	\$116,786
Totals		17,657,100	\$485,543

³⁵⁵ CX-47, at 4.

³⁵⁶ CX-47, at 20.

³⁵⁷ CX-47, at 21.

³⁵⁸ CX-15, at 2.

³⁵⁹ CX-47, at 10.

³⁶⁰ CX-49.

³⁶¹ CX-50.

³⁶² CX-19, at 1.

Customer F liquidated these securities from May 28 through June 3, 2020.³⁶³ According to an Annual Report on Form 10-K that BBRW filed in April 2020, the company “custom designs, hand crafts, and integrates processing, fermentation, and distillation processing systems for craft beer, cannabis and hemp industries.”³⁶⁴ BBRW had total assets of \$949,010, total liabilities of \$6,810,483, and a negative net worth of \$5,861,473.³⁶⁵ BBRW had sales of \$1,589,728, a loss from operations of \$594,237, a gain on a “derivative liability valuation” of \$13,068,808, and a net income of \$10,091,305.³⁶⁶

BBRW issued a press release in May 2020 titled “Successful Results in Testing New Extension System \$25M Projection.”³⁶⁷ In this press release, BBRW’s CEO stated that a proprietary CBD cold water extraction system purportedly developed by BBRW “in combination with our brewery business will support our revenue projections over the next 36 months of \$25M.”³⁶⁸ A press release issued two weeks later announced that BBRW “will bring aboard three major strategic partnerships as a conduit for increasing their customer base for the brewery and cannabis revenues.”³⁶⁹ In the two-day period of May 26 through 28, 2020, the market price of BBRW increased from \$0.015 per share to more than \$0.05 per share—a three-fold increase.³⁷⁰

4. Illustrato Pictures International Inc.

In the three-month period from January to March 2021, Customer E made these deposits of common stock issued by Illustrato Pictures International Inc. (“ILUS”).³⁷¹

Case Opened Date	Customer	Number of Shares Deposited	Market Value at Deposit
January 12	Customer E	76,000,000	\$91,200
February 2	Customer E	84,000,000	\$1,313,760
February 10	Customer E	84,000,000	\$10,248,000
March 16	Customer E	20,000,000	\$3,398,000
March 25	Customer E	20,000,000	\$2,120,000
Totals		284,000,000	\$17,170,960

³⁶³ CX-19, at 6-9.

³⁶⁴ CX-77, at 4.

³⁶⁵ CX-77, at 21.

³⁶⁶ CX-77, at 22.

³⁶⁷ CX-80, at 1; Tr. 4164-65 (Lek).

³⁶⁸ CX-80, at 1.

³⁶⁹ CX-84, at 1.

³⁷⁰ CX-19, at 2.

³⁷¹ CX-20, at 1.

Customer E liquidated these securities from January 28 to August 6, 2021.³⁷² In April 2019, when ILUS was named Cache Elite, Inc., the company stated in a Pink Sheets Disclosure Statement that its “principal products include custom cabinetry and related items.”³⁷³ This Disclosure Statement did not disclose ILUS’s assets, liabilities, net worth, revenue, or net income.³⁷⁴ From December 2019 through December 2020, ILUS’s total assets purportedly increased from \$636,812 to \$3,789,543—a nearly six-fold increase in 12 months.³⁷⁵ This increase was mostly attributable to the appearance of \$3,172,175 in long term investments, which ILUS had valued at \$0 the year before.³⁷⁶ The CEO of ILUS issued a letter to the public in January 2021 stating the company “is now looking to acquire a series of companies under roll up strategy. . . . ILUS is being prepared for rapid sustainable growth and to be a highly valuable and desirable company.”³⁷⁷ Two days later, ILUS posted on Twitter, “Next week more detail on the \$ILUS product roll outs, first acquisitions, and the EV strategy and revenue goals and more.”³⁷⁸

A press release ILUS issued in March 2021 was titled “ILUS International (Illustrato Pictures International Inc.) Signs Financing Agreement with Toto Capital Inc. to Launch an ILUS Crypto Token (Coin).”³⁷⁹ This press release quoted the company’s CEO saying, “We believe we are rapidly getting the corner stones in place to build a world class business and in preparation for exponential growth.”³⁸⁰ The press release included a photo of what it called the “ILUS Token.”³⁸¹ ILUS also tweeted, “We feel \$35-mil of non-dilutive non debt funding is a good thing for shareholders. We can achieve great things with this!”³⁸²

Although ILUS was not current in its SEC filings, Lek testified this did not affect his analysis of a deposit of ILUS securities because the customer claimed an exemption from registration.³⁸³ Lek knew the market price of ILUS common stock was trending upward, but he attributed this to a management shake-up in the company.³⁸⁴ According to Lek, ILUS was an

³⁷² CX-20, at 13.

³⁷³ JX-297, at 9.

³⁷⁴ JX-297, at 1-12.

³⁷⁵ JX-306, at 15.

³⁷⁶ JX-306, at 15.

³⁷⁷ JX-301.

³⁷⁸ CX-90, at 4. In ILUS’s Twitter posts, the company referred to itself by adding a “\$” dollar sign next to its trading symbol.

³⁷⁹ JX-312, at 1; Tr. 3202 (Fraunhoffer).

³⁸⁰ JX-312, at 2.

³⁸¹ JX-312, at 3.

³⁸² CX-90, at 13; Tr. 3205-06 (Fraunhoffer).

³⁸³ Tr. 3915 (Lek).

³⁸⁴ Tr. 3917-18 (Lek).

operating company that manufactured fire equipment.³⁸⁵ This testimony is undermined because, in both 2019 and 2020, ILUS generated \$0 in revenue.³⁸⁶

5. Blue Water Global Group, Inc.

In February and March 2021, four Lek Securities customers made these deposits of common stock issued by Blue Water Global Group, Inc. (“BLUU”).³⁸⁷

Case Opened Date	Customer	Number of Shares Deposited	Market Value at Deposit
February 12	Customer F	91,149,841	\$574,244
February 22	Customer K	226,156,000	\$1,085,549
February 25	Customer L	55,611,940	\$261,376
March 2	Customer M	258,093,584	\$800,090
March 10	Customer L	164,906,164	\$362,794
March 10	Customer L	173,376,244	\$381,428
Totals		969,293,773	\$3,465,481

Lek Securities’ customers liquidated these securities from February 23 through May 13, 2021.³⁸⁸ According to a 2015 Quarterly Report on Form 10-Q, BLUU was “currently developing a chain of casual dining restaurants in popular tourist destinations through the Caribbean region,” and was “preparing to launch a line of premium rums.”³⁸⁹ At that time, BLUU had total assets of \$725,825, total liabilities of \$3,436,894, and a negative net worth of \$2,711,069.³⁹⁰ BLUU had sales of \$2,157, a loss from operations of \$118,944, and a net loss of \$588,458.³⁹¹ Six years later, BLUU experienced a price and volume spike in two weeks in February 2021. Customer F made its deposit of BLUU securities as this price spike was occurring. Lek testified that a spike was something that needed to be looked into.³⁹²

When Lek Securities accepted the deposits of BLUU securities, the firm knew the company was bankrupt and had gone out of business.³⁹³ According to Lek, this bankruptcy did not make him think BLUU was a shell company; instead, he thought it was a restaurant chain

³⁸⁵ Tr. 3928 (Lek).

³⁸⁶ JX-306, at 16.

³⁸⁷ CX-16, at 1.

³⁸⁸ CX-16, at 11-12.

³⁸⁹ JX-120, at 10.

³⁹⁰ JX-120, at 4-5.

³⁹¹ JX-120, at 6.

³⁹² Tr. 1207 (Lek).

³⁹³ Tr. 1216 (Lek).

that had gone out of business.³⁹⁴ Lek checked OTCMarkets.com and noted in the Certificate Processing Program, “Discusses bankruptcy restructuring [sic] but nothing negative.”³⁹⁵ Lek testified he concluded that the spike in BLUU was because of news about the bankruptcy restructuring.³⁹⁶ In the DSRQ that Customer F submitted in support of its deposit of 91,149,841 shares of common stock, the customer stated BLUU was a shell company.³⁹⁷

Customer K disclosed that besides the 226,156,000 shares of BLUU common stock it deposited on February 22, 2021, it also controlled another 34,380,821 shares of the same security at another broker-dealer.³⁹⁸ Two weeks later, BLUU filed a Report on Form 8-K stating, “The Company has been made aware of certain social media promotions discussing various corporate matters of the issuer.”³⁹⁹

6. Quanta, Inc.

In the four-month period from February to May 2021, three Lek Securities customers made these deposits of common stock issued by Quanta, Inc. (“QNTA”).⁴⁰⁰

Case Opened Date	Customer	Number of Shares Deposited	Market Value at Deposit
February 23	Customer N	1,875,000	\$139,875
March 17	Customer B	1,250,000	\$71,250
March 19	Customer K	2,500,000	\$175,000
March 23	Customer B	1,375,000	\$71,500
March 24	Customer N	2,500,000	\$170,000
April 14	Customer N	2,500,000	\$162,750
April 16	Customer B	1,250,000	\$86,875
May 3	Customer B	2,500,000	\$487,750
May 7	Customer N	3,400,000	\$286,960
Totals		19,150,000	\$1,651,960

³⁹⁴ Tr. 1220 (Lek).

³⁹⁵ JX-139, at 15; Tr. 1237-38 (Lek).

³⁹⁶ Tr. 1239 (Lek).

³⁹⁷ Tr. 1221 (Lek).

³⁹⁸ JX-131, at 11; Tr. 1225-26 (Lek).

³⁹⁹ JX-134, at 2; Tr. 1243-44 (Lek). A Report on Form 8-K is the “current report” companies must file with the SEC to announce major events that shareholders should know about. U.S. Securities and Exchange Commission, Form 8-K, <https://www.sec.gov/files/form8-k.pdf>.

⁴⁰⁰ CX-17, at 1.

Lek Securities' customers liquidated these securities from March 5 through July 6, 2021.⁴⁰¹ In the months before the customers' deposits, QNTA went through one or more changes in the company's name and business model. In 2017, the name was Freight Solution, Inc.⁴⁰² The company's business plan was to develop an "Uber-type product" to enable truck drivers to maximize their efficiency in the less-than-truckload shipping industry.⁴⁰³ In an Annual Report on Form 10-K, the company stated it had total assets of \$32,016, total liabilities of \$169,271, and a negative net worth of \$137,255.⁴⁰⁴ Freight Solution reported no revenue, expenses of \$132,993, and a net loss of \$132,993.⁴⁰⁵

In a December 2020 Quarterly Report on Form 10-Q, Freight Solution represented that its business plan had changed to "increasing energy levels in plant matter to increase performance within the human body." The company was also changing its name to Quanta.⁴⁰⁶ Beginning that same month, QNTA launched a press release investor outreach campaign. These were some of QNTA's press releases:

- December 22, 2020: "Quanta Announces Acquisition of 51% of Medolife Rx."⁴⁰⁷ Medolife Rx developed, marketed, and sold a polarized scorpion venom product.⁴⁰⁸
- March 16, 2021: "Medolife Rx Announces Results From Efficacy Test on Polarization Technology Showing 497 Percent Increase [i.e., nearly five times] in Efficacy of API When Polarized."⁴⁰⁹ In this press release, Medolife Rx's CEO stated the company's scorpion venom product "is currently in review for product registration as a treatment for COVID-19 in the Dominican Republic, and this study further validates our technology."⁴¹⁰
- March 18, 2021: "Medolife Rx Announces Positive Results in Clinical Safety Study on Its Polarized Drug Candidate for the Treatment of

⁴⁰¹ CX-17, at 17-18.

⁴⁰² JX-141, at 1.

⁴⁰³ JX-141, at 25.

⁴⁰⁴ JX-141, at 35.

⁴⁰⁵ JX-141, at 36.

⁴⁰⁶ JX-143, at 11; Tr. 1429-30 (Lek).

⁴⁰⁷ JX-144, at 1; Tr. 1431 (Lek).

⁴⁰⁸ Tr. 1432 (Lek).

⁴⁰⁹ JX-148, at 1; Tr. 1436 (Lek). In Lek Securities' Certificate Processing Program, the Deposit Specialist took note of this press release but stated, "News articles reviewed for hype and or spamming—nothing negative detected." JX-176, at 8; Tr. 2653-54 (Faulconbridge).

⁴¹⁰ JX-148, at 2.

COVID-19.”⁴¹¹ QNTA stated in this press release, “The Company is currently involved in various clinical studies on Escozine around the world.”⁴¹²

- March 23, 2021: “Medolife Rx Announces Pre-Clinical Results on Drug Candidate Escozine Showing Efficacy in Eliminating Cell Lines in Ovarian and Bladder Cancer.”⁴¹³ QNTA stated that in clinical trial results, Escozine “eradicated in vitro bladder . . . and ovarian . . . cancer cell lines when administered for 24 hours.”⁴¹⁴
- April 8, 2021: “Medolife Rx Announces Positive Pre-Clinical Results Showing Up to 95 Percent Cancer Cell Apoptosis with Introduction of Lead Cancer Drug Candidate.”⁴¹⁵ After stating these purported pre-clinical results exceeded expectations, Medolife Rx’s CEO noted, “Cancer is one of the leading causes of death worldwide and finding an effective therapeutic is known as the holy grail of medicine.”⁴¹⁶
- April 19, 2021: “Medolife Rx (Quanta, Inc.) Reports Over \$1 Million in Revenue in 2020 Year-End Filing, Comments on Operations.”⁴¹⁷
- April 20, 2021: “Medolife Rx Announces Pre-Clinical Results on Escozine Showing Synergistic Effect in Killing Cancer Cells When Combined With Chemotherapy Agents.”⁴¹⁸ In this press release, QNTA stated that in pre-clinical study results, Escozine “has a synergistic effect in killing leukemia and lymphoma cancer cell lines and cancer cells.”⁴¹⁹
- May 4, 2021: “Medolife Rx Announces Historic Product Registration in Dominican Republic Enabling Escozine to Be Sold Throughout Latin America as Natural Alternative Cancer Medicine.”⁴²⁰ Medolife Rx’s CEO stated, “This registration . . . creates an unbelievable revenue generation

⁴¹¹ JX-151, at 1; Tr. 1443-44 (Lek).

⁴¹² JX-151, at 2. Escozine was the brand name of Medolife Rx’s scorpion venom product. Medolife Rx represented that Escozine “derived from a small molecular peptide found in scorpions.” JX-151, at 2.

⁴¹³ CX-64, at 1; Tr. 1451 (Lek).

⁴¹⁴ CX-64, at 1.

⁴¹⁵ JX-156, at 1; Tr. 1453 (Lek).

⁴¹⁶ JX-156, at 1.

⁴¹⁷ JX-162, at 1; Tr. 1458 (Lek).

⁴¹⁸ JX-163, at 1; Tr. 1459 (Lek).

⁴¹⁹ JX-163.

⁴²⁰ JX-167, at 1; Tr. 1471 (Lek).

opportunity for our company in that the product can be off-label prescribed for treatment of COVID-19 patients as a supportive therapy where vaccination progression has been slow.”⁴²¹

If these press releases are to be believed, in less than two months Medolife Rx scored a 497 percent increase in the efficacy of the company’s polarized scorpion venom; achieved positive results for the scorpion venom for the treatment of COVID-19; obtained pre-clinical results showing the scorpion venom eliminated cell lines on ovarian and bladder cancer; and brought about the historic registration of the scorpion venom in the Dominican Republic allowing the scorpion venom to be sold as a natural alternative cancer medicine throughout Latin America. Unlike these purported developments, QNTA’s February 2021 Form S-1 registration statement disclosed, “We have yet to establish any history of profitable operations.”⁴²²

Lek testified that QNTA’s claims for its scorpion venom did not raise red flags with him because the company issued press releases quite often.⁴²³ According to Lek, “all of these statements have been articles that, if you go all the way back to 2013 when they’re on ABC News, they’re also talking about this as well.”⁴²⁴ He testified he had no reason to believe the press releases he read were false.⁴²⁵

Customer B deposited 1,250,000 shares of QNTA common stock on March 17, 2021. The deposit package included a legal opinion letter signed by Attorney 2.⁴²⁶ The Deposit Specialist emailed Customer B stating, “[Attorney 2] appears on the prohibited attorneys list, please advise.”⁴²⁷ In response, the customer submitted another opinion letter, signed by a lawyer who was not on the Prohibited Attorneys list.⁴²⁸ Another discrepancy with this deposit was that the proof of payment document did not show QNTA was the party that had received the \$50,000 that Customer B purportedly paid for the securities.⁴²⁹ The customer had to submit another proof of payment document.

Customer N deposited 2,500,000 shares of QNTA common stock on April 14, 2021. The deposit package included a legal opinion letter signed by Attorney 2—the second customer to do

⁴²¹ JX-167, at 2.

⁴²² JX-145, at 26; Tr. 1432-33 (Lek).

⁴²³ Tr. 1449 (Lek).

⁴²⁴ Tr. 1463 (Lek). The *ABC News* article was titled “Scorpion Venom: Can It Really Cure What Ails You?” JX-451, at 1; Tr. 1479 (Lek).

⁴²⁵ Tr. 3883 (Lek).

⁴²⁶ JX-150, at 1.

⁴²⁷ JX-150, at 1; Tr. 1438 (Lek).

⁴²⁸ JX-150, at 1; Tr. 1438-39 (Lek).

⁴²⁹ Tr. 2643-44 (Faulconbridge); JX-149, at 16.

so.⁴³⁰ The Deposit Specialist emailed Customer N stating, “Please note [Attorney 2] is listed on the prohibited service providers list. Please advise.”⁴³¹ Instead of rejecting the deposit, Lek Securities accepted a legal opinion letter signed by another attorney. That the customer’s deposit included an opinion letter from a lawyer on the Prohibited Attorneys list did not cause the Deposit Specialist to pay extra attention to that deposit.⁴³² Lek testified it was sufficient for the Deposit Specialist to get a new opinion letter.⁴³³ Lek also testified that QNTA was an actual operating company, given that Lek went on Amazon Prime and ordered the company’s scorpion venom.⁴³⁴

QNTA filed its Annual Report on Form 10K in April 2021. Here the company stated, “Quanta for 2021 will be undergoing a name change to be announced shortly as well as Quanta is in the process of expanding its product line from 4 SKUs to 38 by summer.”⁴³⁵ Two weeks later, an article titled “Small Cap Stocks to Watch” appeared in the online publication *Insider Financial*. This article reported that QNTA “has conducted extensive clinical studies on Escosine as a therapeutic for both COVID-19 and multiple forms of cancer, in the US and globally.”⁴³⁶

7. South Beach Spirits, Inc.

In the one-year period from March 2021 to March 2022, Customer M and Customer O made these deposits of common stock issued by South Beach Spirits, Inc. (“SBES”):⁴³⁷

Case Opened Date	Customer	Number of Shares Deposited	Market Value at Deposit
March 24	Customer M	285,272,000	\$1,711,632
April 29	Customer O	11,115,000	\$25,657
May 6	Customer M	255,342,200	\$638,356
May 27	Customer M	265,762,200	\$637,829
June 17	Customer M	218,885,400	\$415,882
June 22	Customer M	147,513,400	\$221,270
June 28	Customer M	167,955,000	\$235,137

⁴³⁰ JX-158, at 9; Tr. 1455 (Lek).

⁴³¹ JX-159, at 1; Tr. 1455-56 (Lek).

⁴³² Tr. 2631 (Faulconbridge).

⁴³³ Tr. 3896-97, 3900-01 (Lek).

⁴³⁴ Tr. 3897 (Lek).

⁴³⁵ JX-160, at 5; Tr. 1457-58 (Lek). A stock-keeping unit (SKU) is a scannable bar code, most often seen printed on product labels in a retail store. “SKU: How Stock-Keeping Units Work and How Businesses Can Use Them,” <https://www.investopedia.com/terms/s/stock-keeping-unit-sku.asp>.

⁴³⁶ JX-165, at 8; Tr. 1469-70 (Lek).

⁴³⁷ CX-18, at 1.

June 29	Customer O	211,959,968	\$370,930
August 4	Customer O	148,010,340	\$458,832
August 16	Customer O	81,912,146	\$163,824
September 20	Customer O	135,000,000	\$256,500
October 7	Customer O	105,740,000	\$232,628
November 1	Customer O	246,022,828	\$344,432
November 18	Customer O	116,541,834	\$163,159
December 9	Customer O	177,661,961	\$177,662
December 16	Customer O	100,318,176	\$451,432
December 22	Customer O	172,661,961	\$776,979
January 27	Customer O	185,259,567	\$277,889
February 17	Customer O	134,473,861	\$134,474
March 31	Customer O	121,902,800	\$121,903
Totals		3,289,350,642	\$7,816,406

Customer M and Customer O liquidated these securities from April 14, 2021, through February 22, 2022.⁴³⁸ The Hearing Panel could not find in the record any evidence of what SBES's business plan was. In a Pink Sheets Disclosure Statement for the period ending February 2020, SBES disclosed it had no operations.⁴³⁹ As of February 2021, the company reported it had no assets, total liabilities of \$33,000, and a negative net worth of \$33,000.⁴⁴⁰ SBES had no cash flows.⁴⁴¹

Customer M deposited with Lek Securities 285,272,000 shares of SBES common stock on March 24, 2021.⁴⁴² The market value of this deposit was \$1,711,632.⁴⁴³ Customer M purportedly obtained the securities from a November 2015 securities purchase agreement and an eight percent redeemable promissory note with a face amount of \$35,000.⁴⁴⁴ Lek did not go back to SBES's Pink Sheets Disclosure Statements to verify the company had disclosed this promissory note.⁴⁴⁵ To receive its SBES stock, Customer M converted a \$14,263 fragment of the

⁴³⁸ CX-18, at 29-31.

⁴³⁹ JX-213, at 5.

⁴⁴⁰ JX-213, at 10-11.

⁴⁴¹ JX-213, at 13; Tr. 1365 (Lek). It is difficult to square this financial data with Lek Securities' SBES brokers representation letters, signed by Lek, which represented the firm had made a reasonable inquiry to verify that SBES had more than nominal operations and assets consisting of more than cash or cash equivalents. JX-200; JX-220; JX-231; JX-237; JX-243; JX-269; JX-272; JX-281; JX-286.

⁴⁴² JX-192, at 1.

⁴⁴³ CX-18, at 1.

⁴⁴⁴ JX-183, at 6; Tr. 1252-53 (Lek).

⁴⁴⁵ Tr. 1254 (Lek). Lek Securities did not have a practice of doing so for any customer. *Id.*

promissory note.⁴⁴⁶ The \$1,711,632 market value of the deposit was 120 times the \$14,263 value of the note fragment.

In the DSRQ for this deposit, Customer M stated there were no current public SEC filings for SBES.⁴⁴⁷ Under the terms of the promissory note, Customer M converted the fragment of the note at the best trading price in the period in which SBES was delinquent in repayment.⁴⁴⁸ Lek approved the deposit the same day it was made, even though the transfer agent had not issued the stock certificate for the deposit.⁴⁴⁹ OTCMarkets.com had posted a Stop Sign to show SBES was dark or defunct.⁴⁵⁰ SBES had the same telephone number as another issuer of low-priced securities.⁴⁵¹

Customer O deposited 11,115,000 shares of SBES common stock on April 29, 2021. Lek approved this deposit within one minute of receiving the package from an administrative employee of Lek Securities.⁴⁵² Customer O's proof of payment for the underlying promissory note was defective. The Deposit Specialist emailed Customer O, "The attached wire does not show the amount paid or from who. Please resend."⁴⁵³ Lek Securities did not receive the stock certificate for the deposit until three weeks after the deposit had been made.⁴⁵⁴

In his cover email for the April 29, 2021 deposit, the representative of Customer O requested that Lek Securities execute its brokers representation letter before the customer submitted a legal opinion letter supporting the deposit.⁴⁵⁵ For this deposit, Customer O converted a \$578 fragment of a promissory note into SBES common stock.⁴⁵⁶ When the customer deposited these securities, the market value of the deposit was \$25,657—44 times the value of the converted fragment.⁴⁵⁷ In another deposit of SBES stock, Customer O again requested that Lek Securities provide the brokers representation letter in advance—i.e., before the customer submitted the legal opinion letter.⁴⁵⁸

⁴⁴⁶ JX-192, at 15; Tr. 1260 (Lek).

⁴⁴⁷ JX-192, at 17; Tr. 1261 (Lek).

⁴⁴⁸ JX-192, at 29; Tr. 1263-64 (Lek).

⁴⁴⁹ JX-195, at 1; JX-295, at 3; Tr. 1266-67 (Lek).

⁴⁵⁰ JX-295, at 8; Tr. 1276 (Lek).

⁴⁵¹ Tr. 1277-78 (Lek).

⁴⁵² JX-203, at 1; Tr. 1352 (Lek).

⁴⁵³ JX-209, at 5; Tr. 1354 (Lek).

⁴⁵⁴ Tr. 1357-58 (Lek).

⁴⁵⁵ JX-199, at 1; Tr. 1297-98 (Lek).

⁴⁵⁶ JX-202, at 6; Tr. 1338 (Lek).

⁴⁵⁷ Tr. 1350 (Lek).

⁴⁵⁸ JX-227, at 2; Tr. 1380-81 (Lek).

SBES's sole reported liability was a \$33,000 promissory note payable to a noteholder that was not Customer O.⁴⁵⁹ But according to a Pink Sheets Disclosure Statement, this same promissory note had been issued, not to the other noteholder, but to Customer O and its principal.⁴⁶⁰

Lek Securities' Certificate Processing Program had a box checked showing that SBES was not a shell company.⁴⁶¹ Yet in a letter dated July 7, 2021, counsel to SBES informed the company operating OTCMarkets.com that SBES "currently meets the definition of a shell corporation although the company has checked the box indicating otherwise on the disclosure statement."⁴⁶² Lek Securities' review notes approving customers' deposits of SBES did not consider this letter.⁴⁶³

Customer O made a deposit of 148,010,340 shares of SBES common stock after converting a \$7,401 fragment of the underlying promissory note; the market value of the converted stock was \$485,832—65 times the value of the fragment.⁴⁶⁴ SBES's Pink Sheets Disclosure Statement did not show a promissory note for either Customer O or Customer M.⁴⁶⁵

In a Pink Sheets Disclosure Statement filed in October 2021, SBES admitted it was a shell company.⁴⁶⁶ SBES's issued and outstanding shares of common stock had increased from 2.9 billion to 4.8 billion in seven months.⁴⁶⁷ The balance sheet showed the company still had no assets.⁴⁶⁸

S. Lek Securities' Retention of Books and Records Relating to Unapproved Communication Methods

Lek Securities' WSPs contained an Electronic Communications Policy that required "Electronic business communications must be accessed and transmitted only through firm-approved systems."⁴⁶⁹ The firm's WSPs stated that approved firm-sponsored systems included

⁴⁵⁹ JX-213, at 10; Tr. 1364 (Lek).

⁴⁶⁰ JX-229, at 4; Tr. 1378-79 (Lek).

⁴⁶¹ Tr. 1368-69 (Lek).

⁴⁶² JX-224, at 4; Tr. 1371 (Lek).

⁴⁶³ JX-295, at 51; Tr. 1389 (Lek). OTCMarkets.com placed this attorney on its Prohibited Attorneys list in August 2021—i.e., several months after Customer O's deposit of SBES securities. Tr. 1412 (Lek).

⁴⁶⁴ JX-295, at 52; Tr. 1391 (Lek).

⁴⁶⁵ JX-213, at 4; Tr. 1361 (Lek).

⁴⁶⁶ JX-248, at 1; Tr. 1412-13 (Lek).

⁴⁶⁷ JX-248, at 3; Tr. 1413 (Lek).

⁴⁶⁸ JX-248, at 11; Tr. 1415 (Lek).

⁴⁶⁹ Stip. ¶ 98.

email accounts provided by the firm and accessed through the firm’s systems.⁴⁷⁰ Approved firm-sponsored systems included instant messaging, but this was limited to messaging portals approved by the Compliance Department.⁴⁷¹ In January 2021, Lek emailed all Lek Securities employees and contractors stating, “If a customer or counterparty contacts you through an unapproved method of communication, simply reply: ‘Communication through this medium is NOT approved by our Firm.’”⁴⁷² Lek Securities did not provide Lek UK email accounts to any of its employees, and Lek UK emails were not captured by Lek Securities’ surveillance systems or preserved in the firm’s books and records unless the email also included a Lek Securities email address.⁴⁷³

Despite the prohibitions in Lek Securities’ WSPs, firm employees conducted firm business by sending WhatsApp messages.⁴⁷⁴ Lek had both a Lek Securities email address and a Lek UK email address, resulting from his association with both firms.⁴⁷⁵ Lek testified he was not allowed to use his Lek UK email address for communications discussing Lek Securities business, and he knew such emails were not captured by Lek Securities’ U.S. server.⁴⁷⁶ Lek communicated with the Independent Consultant by text messages.⁴⁷⁷ Michael Mainwald received text messages with orders for execution.⁴⁷⁸ Lek UK conducted business on behalf of Lek Securities, but Lek Securities failed to retain emails relating to such business. For example, Mainwald emailed Mathieu de Montfumat of Lek UK and Ghilman Ghuman of Rox Systems with the subject line, “Sbes. Sell 10-mm at .24 and route to celadon.”⁴⁷⁹ If Montfumat sent emails in connection with his execution of this sell order, Lek Securities did not retain such emails.

T. Lek’s Hearing Testimony Was Not Credible

The Hearing Panel finds that Lek was not a credible witness on a number of critical issues in the hearing. Lek has a history of making misrepresentations. For example, in the Lek Securities’ CMA and WSPs, Lek misrepresented that Tabak was AMLCO. In Lek’s hearing testimony, he was not credible in asserting that he served as AMLCO during the time he and Tabak purportedly negotiated a salary increase.

⁴⁷⁰ Stip. ¶ 99.

⁴⁷¹ Stip. ¶ 102.

⁴⁷² CX-121, at 1.

⁴⁷³ Stip. ¶ 100.

⁴⁷⁴ CX-136; CX-137; Tr. 3214-15 (Fraunhoffer).

⁴⁷⁵ Stip. ¶ 101.

⁴⁷⁶ Tr. 1493 (Lek).

⁴⁷⁷ JX-54; Tr. 379-80 (Lek).

⁴⁷⁸ Tr. 2213-14 (Mainwald).

⁴⁷⁹ JX-236; Tr. 1406 (Lek).

Lek was not credible when testifying about when he first received notice of the Order Accepting Settlement and the business line suspension. Lek testified that he was on vacation on December 20, 2019, when he received outside counsel’s email attaching the Order. Yet two days after outside counsel’s email—and while he was still on vacation—Lek sent an email to all Lek Securities employees stating he would be actively working and that the employees should be working as well.⁴⁸⁰ Incongruously, he testified he did not see the Order until the following night—on Monday, December 23, 2019.

Lek was not credible in testifying that Compliance Department employees were involved in overseeing the low-priced securities business line. Lek was not credible in testifying that the Deposit Specialist played a substantive role in the review of deposits of low-priced securities. He was not credible in testifying that Lek Securities substantially implemented all 98 recommendations in the Independent Consultant’s Initial Report. He was not credible in stating that Lek Securities’ exception reports produced meaningful results showing potentially suspicious trading activity. Lek was not credible in asserting Lek Securities’ customers’ deposits and trading in BVTK, BBRW, ILUS, BLUU, QNTA, and SBES securities did not raise red flags.

Lek’s testimony was not credible in reference to several low-priced securities, to the effect that he was not obligated to use independent judgment to consider the reasonableness of what the issuer was representing in its financial reports and press releases. Exercising independent judgment is basic to supervision and the obligation to detect and investigate red flags. To testify in words and substance that what the issuer represented as fact could be possible, in the face of multiple facts to the contrary, was not credible.

The Hearing Panel’s conclusions about Lek’s credibility are supported by its findings, as discussed in the Findings of Fact section of this Decision.

III. Conclusions of Law

A. Lek Securities and Lek Failed to Comply With the Order Accepting Settlement by Violating the Business Line Suspension, in Violation of FINRA Rule 2010

In the first cause of action of the Complaint, Enforcement charges Lek Securities and Lek with violating FINRA Rule 2010 by accepting deposits and liquidating low-priced securities in contravention of the business line suspension in the Order Accepting Settlement. FINRA Rule 2010 provides, “A member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade.”⁴⁸¹ FINRA Rule 2010 encompasses all unethical business-related conduct, even if that conduct is not in connection with a securities

⁴⁸⁰ JX-20, at 1; Tr. 311 (Lek).

⁴⁸¹ *Accord Dep’t of Enforcement v. Taboada*, No. 2012034719701, 2017 FINRA Discip. LEXIS 29, at *29 (NAC July 24, 2017), *appeal dismissed*, Exchange Act Release No. 82970, 2018 SEC LEXIS 823 (Mar. 30, 2018).

transaction.⁴⁸² FINRA Rule 2010 does not require proof of scienter.⁴⁸³ Failure to comply with a FINRA order accepting settlement violates FINRA Rule 2010.⁴⁸⁴ Such failure manifests a fundamental disregard for the authority of FINRA and is unethical.⁴⁸⁵

The business line suspension in the Order provided that Lek Securities “shall not sell or accept for deposit any low-priced security . . . until the Firm certifies to FINRA that it has implemented the recommendations of the Independent Consultant as described below.” One exception to this business line suspension provided that Lek Securities could sell low-priced securities if “[t]he securities were deposited at [Lek Securities] prior to the issuance of this Order.”⁴⁸⁶ Lek Securities and Lek contend that the business line suspension did not become operative because Enforcement failed to give them notice of the date when the suspension would become effective. In fact, the Order provided, “[t]he sanctions imposed herein shall be effective on a date set by FINRA staff.”⁴⁸⁷ Enforcement failed to introduce evidence showing that FINRA staff set an effective date for the sanctions, including the business line suspension.

But the argument made by Lek Securities and Lek proves too much. If Respondents’ argument were accepted, the sanctions of the Order *never* became effective. The evidence shows that the parties, through their conduct lasting more than fifteen months, evidenced their understanding that the sanctions became effective *sometime*, despite FINRA staff’s failure to give notice. Lek testified to his understanding that the business line suspension went into effect when he saw the email from FINRA staff attaching the Order on the night of Monday, December 23, 2019.⁴⁸⁸ Granting Lek the benefit of the doubt, the Hearing Panel agrees with this time frame and concludes that the business line suspension went into effect on the night of December 23, 2019. As of that time, Lek Securities was suspended from selling or accepting for deposit any low-priced securities unless the sales fell within an exception to the Order.

The exception to the business line suspension allowed sales of low-priced securities only if “[t]he securities were deposited at LSC prior to the issuance of this Order.”⁴⁸⁹ FINRA issued the Order on Friday, December 20, 2019, at 3:15 p.m., when Enforcement emailed the Order to Lek Securities’ outside counsel. The low-priced securities that Lek Securities accepted for

⁴⁸² *Dep’t of Enforcement v. Tranchina*, No. 2018058588501, 2023 FINRA Discip. LEXIS 3, at *14 (NAC Mar. 23, 2023), *appeal docketed*, No. 3-21390 (SEC Apr. 20, 2023).

⁴⁸³ *Dep’t of Enforcement v. Kielczewski*, No. 2017054405401, 2021 FINRA Discip. LEXIS 22, at *25 (NAC Sept. 30, 2021), *appeal docketed*, No. 3-20636 (SEC Oct. 27, 2021).

⁴⁸⁴ *Bruce Zipper*, Exchange Act Release No. 90737, 2020 SEC LEXIS 5226, at *26-27 (Dec. 21, 2020).

⁴⁸⁵ *Dep’t of Enforcement v. Perpetual Sec., Inc.*, No. C9B040059, 2006 NASD Discip. LEXIS 18, at *45-46 (NAC Aug. 16, 2006).

⁴⁸⁶ JX-14, at 34.

⁴⁸⁷ JX-14, at 40.

⁴⁸⁸ Tr. 318 (Lek).

⁴⁸⁹ JX-14, at 34.

deposit on Monday, December 23, 2019, did not qualify for the exception to the business line suspension because these securities were not deposited at Lek Securities before the issuance of the Order. When the business line suspension went into effect on the night of December 23, 2019, the firm was not allowed to sell these securities. But the evidence shows Lek Securities sold GNBT, RETC, PPCB, and WCVV after the night of December 23, 2019. These sales did not qualify for the exception to the business line suspension, and violated the suspension.

On February 10, 2020, Lek unilaterally lifted the business line suspension before he submitted the correct certification required by the Order. But the evidence shows Lek Securities accepted deposits of ETEK, PNATD, and GSPE before the business line suspension had been properly lifted, in violation of the suspension. Lek Securities liquidated two of these deposits.

For these reasons, the Hearing Panel concludes that Lek Securities and Lek violated FINRA Rule 2010 when they accepted deposits and sold low-priced securities in contravention of the business line suspension.

B. Lek Securities and Lek Failed to Comply With the Order Accepting Settlement by Not Implementing All the Independent Consultant’s Recommendations, in Violation of FINRA Rule 2010

In the second cause of action, Enforcement charges Lek Securities and Lek with violating FINRA Rule 2010 by failing to adopt and implement all the recommendations in the Independent Consultant’s Initial Report. Below, the Hearing Panel considers whether Lek Securities and Lek implemented specific recommendations. Enforcement cites 18 recommendations that Lek Securities and Lek allegedly failed to implement.

1. Recommendation 4

Recommendation 4 called for Lek Securities to amend its WSPs to require a background check on any person listed on a Form W8, and on any disclosed beneficial owners of a legal entity:

The WSP should be amended to require that the Compliance department perform a background check on any person listed on a Form W8 submitted by a Non-Qualified Intermediary. Similarly, the WSP should be amended to require that a background check be performed for disclosed beneficial owners of a legal entity.⁴⁹⁰

In response to Recommendation 4, the Implementation Report submitted by Lek Securities and Lek stated, “To implement this recommendation, we amended Section 10.16.3.3 of our WSPs.”⁴⁹¹ As amended, Section 10.16.3.3 of the WSPs stated, “In the event that the Firm

⁴⁹⁰ Stip. ¶ 65; JX-60, at 10. A Form W-8 is a Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding and Reporting (Individuals). See Department of the Treasury, Internal Revenue Service, Form W-8BEN, <https://www.irs.gov/pub/irs-pdf/fw8ben.pdf>.

⁴⁹¹ Stip. ¶ 66; JX-65, at 11.

receives Forms W-8/W-BEN from a Non Qualified Intermediary, a background check will be done on the person executing the form.”⁴⁹² Although Lek Securities and Lek made this amendment to Section 10.16.3.3 of the WSPs, they failed to amend the WSPs to require a background check on disclosed beneficial owners.⁴⁹³ Thus, the evidence shows that Lek Securities and Lek failed to implement Recommendation 4.

2. Recommendation 7

Recommendation 7 called for Lek Securities’ CCO or AMLCO to give the CEO an annual certification confirming that a due diligence evaluation of the firm’s low-priced securities customers had been completed:

The firm’s CCO, AMLCO or a designated supervisor should evaluate the performance of the firm’s due diligence as to its microcap securities customers. . . . No less than annually, the CCO or AMLCO should certify to the CEO that he/she has completed this due diligence evaluation as to LSC’s microcap securities customers. All of the above should be added to LSC’s WSP.⁴⁹⁴

In response to Recommendation 7, the Implementation Report stated, “The Firm has amended Section 6.8 of its WSPs and is actively conducting research on other providers.”⁴⁹⁵ But this amendment of Section 6.8 of the WSPs did not include the requirement that the CCO or AMLCO certify to the CEO the completion of the evaluation of the firm’s due diligence as to its low-priced securities customers.⁴⁹⁶ Thus, the evidence shows that Lek Securities and Lek failed to implement Recommendation 7.

3. Recommendation 15

Recommendation 15 called for Lek Securities’ CCO or AMLCO to determine whether the firm’s low-priced securities customers answered all questions in the Compliance Review process completely and accurately, and provided the requested documentation:

The firm’s CCO, AMLCO or the designated supervisor for microcap securities should perform a review of the Compliance Review process for microcap securities and determine whether microcap securities customers are answering all questions

⁴⁹² Stip. ¶ 67; JX-66, at 144.

⁴⁹³ JX-66, at 126.

⁴⁹⁴ Stip. ¶ 63. The Initial Report refers to Lek Securities’ WSPs in the singular number—i.e., “WSP.”

⁴⁹⁵ Stip. ¶ 64.

⁴⁹⁶ JX-66, at 67.

completely and accurately and providing the requested documentation. This review should be documented and maintained as part of the firm's books and records.⁴⁹⁷

In response to Recommendation 15, the Implementation Report stated, "This recommendation has been implemented by an update to Section 13.1.5 of our WSPs."⁴⁹⁸ The update to Section 13.1.5 of Lek Securities' WSPs stated, "Annually, microcap securities customers must complete and submit an attestation updating any information that has changed in the past year . . . and affirm that all information provided to the Firm in the account application process remains true and correct."⁴⁹⁹ Yet Section 13.1.5 did not address either the recommended review by the CCO or AMLCO, or the recommended documentation of that review in the firm's books and records.⁵⁰⁰ Thus, the evidence shows that Lek Securities and Lek failed to implement Recommendation 15.

4. Recommendation 27

Recommendation 27 had to do with the circumstance in which a Lek Securities customer made more than one deposit of the same low-priced security. When that occurred, the recommendation called on Lek Securities to contact the customer for an explanation:

If the customer has deposited any shares of this security in the past with LSC, then the firm should determine if the customer answered Yes to Question 10 on the DSRQ. If so, then LSC should contact the customer for an explanation and record and maintain written documentation of that customer's explanation.⁵⁰¹

In response to Recommendation 27, the Implementation Report stated, "Implementation: See new DSRQ form. Also see screen shot of new functionality in cert program."⁵⁰² Question 10 of the new DSRQ asked the customer depositing low-priced securities, "Have you previously sold shares of this issuer through Lek Securities? If so, approximately when?"⁵⁰³ Lek Securities' Certificate Processing Program had a section on the form titled "Show other sales of this security."⁵⁰⁴ Yet nothing in the DSRQ or the Certificate Processing Program showed whether Lek Securities contacted the customer for an explanation as to why more than one deposit had been made, or that the firm recorded and maintained written evidence of the customer's

⁴⁹⁷ Stip. ¶ 56.

⁴⁹⁸ Stip. ¶ 57; JX-65, at 18.

⁴⁹⁹ JX-66, at 206; Tr. 1747 (Lek).

⁵⁰⁰ JX-66, at 206.

⁵⁰¹ Stip. ¶ 49; JX-60, at 22.

⁵⁰² Stip. ¶ 50; JX-65, at 26.

⁵⁰³ JX-439, at 2; Tr. 1676-77 (Lek).

⁵⁰⁴ JX-521, at 3; Tr. 1680-81 (Lek).

explanation, as required by Recommendation 27.⁵⁰⁵ Thus, the evidence shows that Lek Securities and Lek failed to implement Recommendation 27.

5. Recommendation 45

Recommendation 45 called for a searchable database of attorneys, transfer agents, and other service providers with whom Lek Securities had a negative history:

The firm maintains notes on attorneys, transfer agents and other service providers with whom it has had a negative history. The firm should enter this information into a searchable database to minimize the chance that a service provider believed to be suspicious by some personnel at one time will not be relied upon by other personnel at a subsequent time.⁵⁰⁶

In response to Recommendation 45, the Implementation Report stated that Lek Securities had created a searchable table in its Certificate Processing Program.⁵⁰⁷ The Implementation Report provided a screenshot of a new “Persons deemed unreliable” table in the Certificate Processing Program, and represented that this table implemented Recommendation 45.⁵⁰⁸ Yet, contrary to the Independent Consultant’s belief, the firm did *not* maintain notes on attorneys, transfer agents, or other service providers with whom it had had a negative history.⁵⁰⁹ Lek testified he did not know why he had not informed the Independent Consultant as to the lack of such notes.⁵¹⁰ Furthermore, Lek remained silent even after he reviewed the draft Initial Report, which contained the erroneous statement that Lek Securities kept such a list.⁵¹¹

Lek failed to put any attorneys, transfer agents, or other service providers into the searchable table that Lek Securities had created in response to Recommendation 45.⁵¹² The table was an empty list, with no names.⁵¹³ In his testimony, Lek admitted it was not helpful to have a searchable table that was empty.⁵¹⁴ The Deposit Specialist testified she did not use the table or

⁵⁰⁵ JX-439, at 2; JX-521, at 3.

⁵⁰⁶ Stip. ¶ 42.

⁵⁰⁷ Stip. ¶ 44; JX-65, at 36; Tr. 498-99 (Lek).

⁵⁰⁸ JX-65, at 36-37.

⁵⁰⁹ Tr. 492 (Lek). Ramute Zukas testified there was no formal list, but she kept a list of her own. Tr. 2023 (Zukas).

⁵¹⁰ Tr. 493 (Lek).

⁵¹¹ JX-59, at 22; Tr. 495-96 (Lek).

⁵¹² Tr. 504 (Lek).

⁵¹³ Tr. 505-06 (Lek).

⁵¹⁴ Tr. 508, 512 (Lek).

know what it was.⁵¹⁵ Lek did not inform the Independent Consultant the table was empty.⁵¹⁶ According to Lek, it was enough that “we created the technical ability to create this list that came from the recommendation.”⁵¹⁷

Lek knew of suspicious service providers and other actors that should have been in the searchable table. Lek Securities had a negative history with Attorney 3, who was on OTCMarkets.com’s Prohibited Attorneys list.⁵¹⁸ Separately, in an email to the Independent Consultant, Lek accused Attorney 1, another attorney involved in deposits of low-priced securities at Lek Securities, of trying to orchestrate an unlawful unregistered distribution through the firm in October 2020.⁵¹⁹ But the firm failed to place this attorney’s name in the empty table. Thus, the evidence shows that Lek Securities and Lek failed to implement Recommendation 45.

6. Recommendation 46

Recommendation 46 called for a searchable database of low-priced securities promoters:

The firm has become familiar with certain microcap securities promoters. The firm should create a searchable database or upload that information in a searchable format and making this database accessible to those who review microcap securities business or who have one or more customers engaging in this business. The database should contain promoters’ names, addresses and any other relevant information that may assist LSC in identifying promotional activity. This database should [be] made searchable.⁵²⁰

In response to Recommendation 46, the Implementation Report referenced the same empty table in the Certificate Processing Program and provided a screen shot of the tab labeled “Persons deemed unreliable.”⁵²¹ But like the attorneys with whom Lek Securities had a negative history, Lek testified the firm had *not* become familiar with promoters of low-priced securities.⁵²² The table was empty. Thus, the evidence shows that Lek Securities and Lek failed to implement Recommendation 46.

⁵¹⁵ Tr. 2615 (Faulconbridge).

⁵¹⁶ Tr. 509 (Lek).

⁵¹⁷ Tr. 979 (Lek).

⁵¹⁸ Tr. 1937-38 (Lek), 2026 (Zukas); JX-400, at 1.

⁵¹⁹ JX-86, at 5; CX-24, at 2.

⁵²⁰ Stip. ¶ 43.

⁵²¹ Stip. ¶ 45; JX-65, at 37; Tr. 502 (Lek).

⁵²² Tr. 494-95 (Lek).

7. Recommendation 49

Recommendation 49 called for Lek Securities to amend its WSPs to prevent any sales of low-priced securities under SEC Rule 144 where the firm's customer had held the securities for less than one year and the issuer was not current in its reporting requirements:

The WSP should be amended for the firm to block attempted sales of microcap securities where the customer is (a) relying on Rule 144, (b) the holding period is less than one year and (c) the issuer is not current in its reporting requirements.⁵²³

In response to Recommendation 49, the Implementation Report stated that Lek Securities had updated its Q6 automated risk system to obtain the reporting and disclosure status of the issuer through an automated feed from OTCMarkets.com and block the sales identified by the Recommendation.⁵²⁴ Yet the Recommendation called for an amendment to Lek Securities' WSPs. The Q6 system was not part of the WSPs. This system and its controls could be overridden.⁵²⁵ Lek Securities' manual titled "Automated Risk Controls," which governed the Q6 system, did not have the purported update to block the securities sales identified by Recommendation 49.⁵²⁶ According to Lek, Section 14.33 of Lek Securities' WSPs, titled "Unregistered Sales of Restricted Securities," also addressed Recommendation 49.⁵²⁷ But Section 14.33 stated only, "Broker-dealers are prohibited from selling unregistered securities unless the sale falls within an available exemption, such as Rule 144."⁵²⁸ This general statement did not require Lek Securities to block any attempted sale of a low-priced security. Thus, the evidence shows that Lek Securities and Lek failed to implement Recommendation 49.

8. Recommendation 54

Recommendation 54 called for Lek Securities to develop exception reports that examined other red flags set forth in FINRA Regulatory Notice 19-18:

Lek should develop exception reports that examine other red flags set forth in [Regulatory Notice] 19-18. One example would be to examine sales of unregistered microcap securities and review sales that happened at higher prices than expected. This would be a more targeted way of analyzing trading in microcap stocks and could reveal possible collusion and/or a pump and dump scheme.⁵²⁹

⁵²³ Stip. ¶ 59; JX-60, at 32.

⁵²⁴ Stip. ¶ 60; Tr. 1733-36 (Lek).

⁵²⁵ Tr. 2145-46 (Mainwald), 4208-09 (Lek).

⁵²⁶ Tr. 1873-74 (Lek); JX-328.

⁵²⁷ Tr. 1739 (Lek).

⁵²⁸ JX-66, at 281.

⁵²⁹ Stip. ¶ 72.

In response to Recommendation 54, Lek created a new exception report titled “Check for Certificate Sold at High Prices.”⁵³⁰ This exception report activated when the execution price of a low-priced security exceeded 125 percent of the 20-day moving average of the security’s market price, and when the benefit to the customer was in excess of \$5,000.⁵³¹ Lek testified the exception report responded to Recommendation 54 because it produced more meaningful results than earlier exception reports—i.e., the report amalgamated a customer’s trades in a single trading day to determine whether the customer obtained a benefit in excess of \$5,000.⁵³² Contrary to Enforcement’s contention, the “Check for Certificates Sold at High Prices” was a new exception report at Lek Securities.⁵³³ There were occasions when, after an exception report activated for a Certificate Sold at High Prices, Lek contacted the customer to discuss the circumstances and reasons for the trade.⁵³⁴

Lek testified that Lek Securities created new exception reports for these events:

- The equity of a low-priced securities customer’s portfolio increased by 10 percent or more.⁵³⁵
- A Lek UK account appeared on a Lek Securities exception report.⁵³⁶
- Lek Securities executed a trade in a security marked “Caveat Emptor” on OTCMarkets.com.⁵³⁷
- A customer sold a low-priced security even though the customer had represented it would not sell within the calendar quarter following the deposit of the security.⁵³⁸
- Low-priced securities liquidated by more than one account in the prior week.⁵³⁹

Enforcement does not identify which additional exception reports Lek Securities should have developed to implement Recommendation 54. Instead, Enforcement relies on the

⁵³⁰ Tr. 1820-21 (Lek).

⁵³¹ Tr. 1821-22 (Lek).

⁵³² Tr. 1824-25 (Lek).

⁵³³ Tr. 1829 (Lek).

⁵³⁴ Tr. 1843 (Lek).

⁵³⁵ Tr. 1830-31 (Lek).

⁵³⁶ Tr. 1833-34 (Lek).

⁵³⁷ Tr. 1836 (Lek).

⁵³⁸ Tr. 1837 (Lek).

⁵³⁹ Tr. 1837, 3836 (Lek).

Independent Consultant's statement in the Final Report that Lek Securities and Lek failed to implement Recommendation 54. But the Independent Consultant did not identify which new exception reports Lek Securities should have developed, either. This proof is not enough to establish a violation of FINRA Rule 2010. Thus, Enforcement failed to meet its burden of proof on Recommendation 54.

9. Recommendation 58

Recommendation 58 called for Lek Securities' annual FINRA Rule 3120 Policies and Procedures testing report to contain a comprehensive assessment of the firm's use, selection, and review of exception reports:

The firm's use, selection and review (including frequency of review) of exception reports should be the subject of a comprehensive assessment in the firm's annual Rule 3120 Policies and Procedures testing report. This should include a discussion of whether those assigned to review exception reports relating to the deposit, processing or trading of microcap securities are best suited to these responsibilities, review metrics such as the percentage of line items reviewed for each exception report, whether reviews of exception reports are being appropriately documented and review processes memorialized whether the firm's resources are being properly allocated to the review of exception reports.⁵⁴⁰

Although Recommendation 58 did not require an amendment to the WSPs, the Implementation Report responded to this Recommendation by stating, "Section 6.8 of our WSPs."⁵⁴¹ Section 6.8, titled "Annual Certification Of Compliance And Supervisory Processes," stated among other things, "The [CCO] or his designee will include an evaluation of the performance of the firm's due diligence as to its microcap securities customers."⁵⁴² Section 6.8 went on to repeat the language in Recommendation 58.⁵⁴³

Recommendation 58 called for a comprehensive assessment, a discussion, and a review of exception reports. But Lek Securities' FINRA Rule 3120 Reports did little more than repeat the Recommendation, conclude that the exception process was functioning properly, and state that Lek was still the most appropriate reviewer of low-priced securities exception reports.⁵⁴⁴ There was no evidence that Lek Securities conducted a comprehensive assessment. The CCO, Tabak, had no expertise in evaluating exception reports for low-priced securities and no involvement in this business line. As Tabak testified, any assessment he might have done

⁵⁴⁰ Stip. ¶ 68.

⁵⁴¹ Stip. ¶ 70; JX-65, at 47.

⁵⁴² JX-66, at 67.

⁵⁴³ JX-66, at 67.

⁵⁴⁴ JX-341, at 5-6; JX-403, at 6.

necessarily excluded the low-priced securities business line.⁵⁴⁵ Thus, the evidence shows that Lek Securities and Lek failed to implement Recommendation 58.

10. Recommendation 59

Recommendation 59 called for the FINRA Rule 3120 report to include the CCO's review of whether exception reports were producing useful data and had the correct settings and thresholds:

Further, in the annual Rule 3120 report, the CCO should review whether exception reports are producing useful data and have the correct settings and thresholds. The review would include whether reports are producing fewer meaningful results than expected or too many "false positives."⁵⁴⁶

Even though Recommendation 59 did not require an amendment to the WSPs, the Implementation Report responded to this Recommendation by stating it had been implemented by adding its requirements to Section 6.8 of the WSPs.⁵⁴⁷ Yet Lek Securities' implementation of Recommendation 59 had the same defects as the firm's implementation of Recommendation 58. Thus, the evidence shows that Lek Securities and Lek failed to implement Recommendation 59.

11. Recommendation 67

Recommendation 67 called for Lek Securities' Compliance Department to perform a reasonable inquiry to determine whether a customer's sale or purchase of low-priced securities was close to news or a significant announcement that affected the price of the security:

For all microcap securities customers, in reviewing any exception report, Compliance should perform a reasonable inquiry to determine whether the microcap securities customer's sale or purchase is close in time to news or a significant announcement that affects the price of the security.⁵⁴⁸

In response to Recommendation 67, the Implementation Report stated, "Implementation: The newly designed exception report 'Check for Certificates sold at High Prices' was designed to flag this."⁵⁴⁹ But this exception report did not implement the Recommendation, which called for Lek Securities' Compliance Department to conduct a reasonable inquiry in response to exception reports. Adopting a single exception report missed the mark. There is no evidence that the Compliance Department reviewed exception reports activated by sales of low-priced securities. And, to take note of a press release and state only "nothing negative detected," does

⁵⁴⁵ Tr. 2574-75 (Tabak).

⁵⁴⁶ Stip. ¶ 69.

⁵⁴⁷ Stip. ¶ 70; JX-65, at 47.

⁵⁴⁸ Stip. ¶ 73; JX-60, at 37.

⁵⁴⁹ Stip. ¶ 74; JX-65, at 51; Tr. 1842 (Lek).

not constitute a reasonable inquiry.⁵⁵⁰ Thus, the evidence shows that Lek Securities and Lek failed to implement Recommendation 67.

12. Recommendation 70

Recommendation 70 stated, “We recommend that Lek’s WSP be amended to incorporate inclusion of those red flags in [Regulatory Notice 19-18] applicable to LSC’s microcap securities business.”⁵⁵¹ In response to this Recommendation, the Implementation Report stated, “Implemented in Section 10.11.1 of our WSPs.”⁵⁵² Section 10.11.1 of Lek Securities’ WSPs added red flags from FINRA Regulatory Notice 19-18, including:

Customer deposits into an account physical certificates or electronically deposits or transfers shares that:

- Were recently issued or represent a large percentage of the float for the security.
- Reference a company or customer name that has been changed with it [sic] does not match the name on the account.
- Were issued by a shell company.
- Were issued by a company that has no apparent business, revenues or products.
- Were issued by a company whose SEC filings are not current, or incomplete or nonexistent.
- Were issued by a company that has been through several recent name changes or business combinations or recapitalizations.⁵⁵³

Lek Securities amended this Section of the firm’s WSPs in response to Recommendation 70.⁵⁵⁴ In addition, Lek testified that Section 14.33 of the WSPs, titled “Unregistered Sales Of Restricted Securities,” added a red flag for “Physical certificates or securities delivered by DWAC or DRS.”⁵⁵⁵ Section 14.4.4.1 of the WSPs incorporated FINRA Regulatory Notice 19-18

⁵⁵⁰ JX-176, at 8; Tr. 2653-55 (Faulconbridge).

⁵⁵¹ JX-60, at 39; Tr. 516 (Lek).

⁵⁵² Stip. ¶ 54; JX-65, at 52; Tr. 516-17 (Lek). Section 10.11.1 was titled “Risk Indicators of Potential Money Laundering.” JX-66, at 132.

⁵⁵³ JX-66, at 133.

⁵⁵⁴ Tr. 1694-95 (Lek).

⁵⁵⁵ Tr. 1698 (Lek); JX-66, at 281.

by reference, stating, “See FINRA NTMs 09-05 and 19-18.”⁵⁵⁶ This incorporation by reference included a hyperlink to enable the reader to access Regulatory Notice 19-18 directly. Lek Securities’ Certificate Processing Program carried a tab that Lek or the Deposit Specialist could click and directly access the Regulatory Notice on FINRA’s website.⁵⁵⁷ The Certificate Processing Manual contained a section with the heading “Notice to members 2-21, 09-05, 19-18” that stated, “As a Specialist, you should be familiar with the following notices and they should be read in conjunction with the following manual.”⁵⁵⁸ When Lek Securities conducted employee training for low-priced securities, Lek discussed Regulatory Notice 19-18.⁵⁵⁹

Recommendation 70 called for Lek Securities to “*incorporate inclusion* of those red flags in [Regulatory Notice 19-18] applicable to LSC’s microcap securities business.”⁵⁶⁰ Incorporating inclusion of red flags does not mean quoting verbatim and in their entirety the roughly 99 red flags in Regulatory Notice 19-18. Even though it might have been best for Lek Securities to have done so, and even though the firm’s implementation of this Recommendation was sloppy, the Hearing Panel does not find the implementation was so deficient or unreasonable as to violate FINRA Rule 2010. Thus, Enforcement failed to meet its burden of proof as to Recommendation 70.

13. Recommendation 72

Recommendation 72 stated, “The manual for the Exception Report System should be updated.”⁵⁶¹ Lek testified that, contrary to this Recommendation, he did not update the manual for the Exception Report System.⁵⁶² According to the Implementation Report, it was unnecessary to implement Recommendation 72 because Lek Securities employees were already familiar with the Exception Report Viewer.⁵⁶³ If this were true, it was incumbent on Lek Securities and Lek to propose an Alternative Procedure to the Independent Consultant, relieving them of the responsibility for implementing this Recommendation.⁵⁶⁴ Respondents did not do this. Thus, the evidence shows that Lek Securities and Lek failed to implement Recommendation 72.

⁵⁵⁶ JX-66, at 241; Tr. 527, 1699-1700 (Lek). Section 14.4.4.1 was titled “Low-Priced And Microcap Securities.” JX-66, at 241.

⁵⁵⁷ JX-521, at 1-5; Tr. 1704-05 (Lek).

⁵⁵⁸ JX-425, at 4; Tr. 1711-12 (Lek).

⁵⁵⁹ Tr. 529 (Lek).

⁵⁶⁰ JX-60, at 39 (emphasis added).

⁵⁶¹ Stip. ¶ 58; JX-60, at 41.

⁵⁶² Tr. 1800-01 (Lek).

⁵⁶³ JX-65, at 55.

⁵⁶⁴ JX-14, at 36-37.

14. Recommendation 79

Recommendation 79 called for Lek Securities to amend its WSPs to provide that any recommendation in an independent AML testing report should be implemented in the WSPs:

Lek's WSP should be amended to provide that any recommendations in any independent AML testing report should be implemented in the WSP. If the firm rejects any such recommendation, then a written explanation as to why it will not implement the recommendation should be documented by the AMLCO and a copy provided to the CCO and CEO.⁵⁶⁵

The Implementation Report stated that Recommendation 79 had been implemented in Section 10.3 of the WSPs.⁵⁶⁶ Yet Lek made no changes in Section 10.3.⁵⁶⁷ As written before the Implementation Report, Section 10.3 stated, "The AML Compliance Officer will arrange for annual (on a calendar-year basis) independent testing of Lek Securities' policies and procedures regarding money laundering and the effectiveness of the program."⁵⁶⁸ Section 10.3 did not require that any recommendations in an independent AML testing report be implemented in the WSPs.⁵⁶⁹ Furthermore, there is no evidence that Lek Securities required a written explanation to be prepared as to why the firm decided not to implement a recommendation. Thus, the evidence shows that Lek Securities and Lek failed to implement Recommendation 79.

15. Recommendation 80

Recommendation 80 called for Lek Securities to amend its WSPs to incorporate a list of topics an independent AML testing firm had to review:

The WSP should be amended to contain a list of topics that an independent AML testing firm must review. The list should include (a) microcap securities, (b) the firm's process for reviewing customer deposits of unregistered shares, (c) its surveillance parameters, (d) its review of suspicious activity, and (e) the type of AML training provided to its staff.⁵⁷⁰

The Implementation Report stated that Recommendation 80 had been implemented in Section 10.3 of the WSPs. Yet Section 10.3 had no list of topics that an independent AML

⁵⁶⁵ Stip. ¶ 46; JX-60, at 44.

⁵⁶⁶ JX-65, at 58. Section 10.3 was titled "Independent Testing." JX-66, at 119.

⁵⁶⁷ JX-66, at 119-20.

⁵⁶⁸ JX-66, at 120.

⁵⁶⁹ JX-66, at 119-20.

⁵⁷⁰ Stip. ¶ 47; JX-60, at 44.

testing firm had to review.⁵⁷¹ Thus, the evidence shows that Lek Securities and Lek failed to implement Recommendation 80.

16. Recommendation 81

Recommendation 81 stated, “preference should be given to those independent AML testing providers with expertise in all of these areas and which commit to examine each of these five subjects”⁵⁷²—i.e., the five subjects listed in Recommendation 80. Yet in the AML testing provider’s statement of work, the provider did not commit to examine each of the five subjects in Recommendation 80.⁵⁷³ Thus, the evidence shows that Lek Securities and Lek failed to implement Recommendation 81.

17. Recommendation 94

Recommendation 94 stated, “Lek’s WSP does not contain any reference to who is responsible for approving new microcap securities cases, microcap securities liquidations and trading activity involving microcap securities. The firm should amend its WSP to so state.”⁵⁷⁴ In response to this Recommendation, the Implementation Report stated, “The Certificate Application has been updated with a list of approvers and who approved each transaction. (See prior exhibit).”⁵⁷⁵ The Certificate Processing Program had an entry stating, “This case has been approved by,” followed by an approved date and a drop-down menu to identify the Lek Securities employee who approved the deposit.⁵⁷⁶ As for sales of securities, Section 14.2 of the WSPs specified that, for buy or sell orders by trading personnel, the orders had to be approved by the Compliance Department before entry.⁵⁷⁷ The Certificate Processing Program, however, was not part of Lek Securities’ WSPs, and the WSPs did not identify who was responsible for approving low-priced securities cases, liquidations of such securities, or trading activity involving such securities. Thus, the evidence shows that Lek Securities and Lek failed to implement Recommendation 94.

18. Recommendation 96

Recommendation 96 stated, “In its WSP, the firm provides the list of potential red flags set forth in NTM 09-05. In the WSP, the firm should update this list with red flags set forth in NTM 19-18.”⁵⁷⁸ In response to this Recommendation, the Implementation Report stated,

⁵⁷¹ JX-66, at 119-20.

⁵⁷² JX-60, at 44.

⁵⁷³ JX-435, at 1.

⁵⁷⁴ JX-60, at 48.

⁵⁷⁵ Stip. ¶ 62; JX-65, at 63.

⁵⁷⁶ JX-521, at 1; Tr. 1806 (Lek).

⁵⁷⁷ JX-66, at 235; Tr. 1814 (Lek). Section 14.2 was titled “Orders Requiring Approval.” JX-66, at 234.

⁵⁷⁸ JX-60, at 48; Stip. ¶ 55.

“Implementation: Insurance products removed. NTM 19-18 red flags added to the AML section.”⁵⁷⁹ As in response to Recommendation 70, Lek Securities and Lek updated the list of potential red flags in the firm’s WSPs with several of those set forth in FINRA Regulatory Notice 19-18, and incorporated that Notice by reference.⁵⁸⁰ Thus, Enforcement failed to meet its burden of proof as to Recommendation 96.

19. Summary of Recommendations Not Implemented

Lek Securities and Lek failed to implement Recommendations 4, 7, 15, 27, 45, 46, 49, 58, 59, 67, 72, 79, 80, 81, and 94 of the Initial Report. The Hearing Panel concludes that Lek Securities and Lek violated FINRA Rule 2010 when they failed to implement all the Independent Consultant’s recommendations. In contrast, Enforcement failed to meet its burden of proving that Lek Securities and Lek failed to implement Recommendations 54, 70 and 96.

C. Lek Securities and Lek Made False Representations to FINRA, in Violation of FINRA Rule 2010

In the third cause of action, Enforcement charges Lek Securities and Lek with violating FINRA Rule 2010 by falsely representing in their Implementation Report that the firm had fully implemented all the recommendations in the Initial Report. Conduct violates FINRA Rule 2010 if it reflects negatively on a FINRA member firm’s ability to comply with regulatory requirements fundamental to the securities industry.⁵⁸¹ Providing false representations to FINRA violates FINRA Rule 2010.⁵⁸²

On February 13, 2020, Lek sent a letter to FINRA to “certify that LSC has implemented the recommendations of the Independent Consultant as described in the Settlement Agreement.”⁵⁸³ Lek submitted the Implementation Report to FINRA on March 4, 2020, and represented that Lek Securities had fully implemented the Independent Consultant’s 98 recommendations.⁵⁸⁴ Yet the evidence shows that Lek Securities and Lek failed to implement 15 of the recommendations. Respondents’ representation to FINRA was false. Accordingly, the Hearing Panel concludes that Lek Securities and Lek violated FINRA Rule 2010 when they falsely represented they had implemented all the recommendations.

⁵⁷⁹ JX-65, at 64; Tr. 517 (Lek).

⁵⁸⁰ JX-66, at 133, 241; Tr. 527 (Lek).

⁵⁸¹ *Dep’t of Enforcement v. Felix*, No. 2018058286901, 2021 FINRA Discip. LEXIS 7, at *22-23 (NAC May 26, 2021), *appeal docketed*, No. 3-20380 (SEC July 1, 2021).

⁵⁸² *Dep’t of Enforcement v. Saliba*, No. 2013037522501r, 2022 FINRA Discip. LEXIS 12, at *21 (NAC Oct. 6, 2022), *appeal docketed*, No. 3-18989 (SEC Nov. 4, 2022); *Keilen Dimone Wiley*, Exchange Act Release No. 76558, 2015 SEC LEXIS 4952, at *22-23 (Dec. 4, 2015).

⁵⁸³ Stip. ¶ 38; JX-63, at 2.

⁵⁸⁴ JX-71.

D. Lek Securities and Lek Failed to Develop and Implement a Reasonable AML Program, in Violation of FINRA Rules 3310 and 2010

In the fourth cause of action, Enforcement charges Lek Securities and Lek with violating FINRA Rules 3310 and 2010 by failing to develop and implement a reasonable AML program. FINRA Rule 3310 requires that a FINRA member firm develop and implement a written AML program:

Each member shall develop and implement a written anti-money laundering program reasonably designed to achieve and monitor the member's compliance with the requirements of the Bank Secrecy Act . . . and the implementing regulations promulgated thereunder by the Department of the Treasury.

FINRA Rule 3310 requires that the AML program “[e]stablish and implement policies and procedures that can be reasonably expected to detect and cause the reporting of transactions required under 31 U.S.C. 5318(g) [the Bank Secrecy Act] and the implementing regulations thereunder.”⁵⁸⁵ The implementing regulation of the Department of the Treasury provides that “[e]very broker or dealer in securities within the United States . . . shall file with FinCEN . . . a report of any suspicious transaction relevant to a possible violation of law or regulation.”⁵⁸⁶

In FINRA Regulatory Notice 02-21, FINRA advised member firms developing AML programs to consider “the types of transactions in which its customers engage.”⁵⁸⁷ A firm's AML program must address several areas, including monitoring of account activities, trading, and the flow of money into and out of accounts.⁵⁸⁸ In Regulatory Notice 02-47, FINRA reminded member firms of their duty to file a SAR for any suspicious activities or transactions.⁵⁸⁹ A FINRA member firm's AML procedures must be tailored to reflect the firm's business model and customer base and account for factors such as its business activities, the types of accounts it maintains, and the types of customer transactions it executes.⁵⁹⁰ Compliance with FINRA Rule 3310 requires both adequate systems and written procedures.⁵⁹¹ Besides filing

⁵⁸⁵ FINRA Rule 3310(a).

⁵⁸⁶ 31 C.F.R. § 1023.320.

⁵⁸⁷ Regulatory Notice 02-21, at 4 (Apr. 2002), <https://finra.org/rules-guidance/notices/02-21>.

⁵⁸⁸ Regulatory Notice 02-21, at 5.

⁵⁸⁹ Regulatory Notice 02-47, at 2-3 (Aug. 2002), <https://finra.org/rules-guidance/notices/02-47>.

⁵⁹⁰ *Dep't of Enforcement v. Glendale Secs., Inc.*, No. 2016049565901, 2021 FINRA Discip. LEXIS 25, at *73-74 (NAC Oct. 6, 2021).

⁵⁹¹ *Dep't of Enforcement v. Wilson-Davis & Co.*, No. 2012032731802, 2019 FINRA Discip. LEXIS 54, at *44 (NAC Dec. 19, 2019), *remanded*, Exchange Act Release No. 99248, 2023 SEC LEXIS 3658 (SEC Dec. 28, 2023).

a SAR for any individual suspicious transaction, the firm is required to report any pattern of transactions of which the suspicious transaction is a part.⁵⁹²

1. Systemic Deficiencies in Lek Securities' AML Program

Lek Securities' AML program was not reasonably designed to achieve the firm's compliance with the requirements of the Bank Secrecy Act and implementing regulations. The Hearing Panel finds several deficiencies.

First, the Deposit Specialist was inexperienced and unqualified to detect and investigate suspicious activity by Lek Securities' low-priced securities customers. Neither of the two individuals who filled the Deposit Specialist position had the knowledge, training, or expertise necessary to review deposits for red flags of potentially suspicious activity or to conduct substantive analysis.⁵⁹³ Indeed, the Deposit Specialist was not really responsible for identifying red flags.⁵⁹⁴

Second, under the Bank Secrecy Act, broker-dealers are *required* to have an AMLCO.⁵⁹⁵ Lek Securities did not have an AMLCO for at least a year. Lek Securities' CMA and WSPs falsely represented that Tabak was AMLCO. Lek and Tabak pointed to *each other* as AMLCO.

Third, Lek Securities did not have an adequate, complete, or ongoing procedure to verify the accuracy of information about the firm's customers. Lek Securities allowed its customers to submit account opening documents that were unduly vague as to their source of funds and wealth.⁵⁹⁶ Although Lek testified that he interviewed customers and obtained more detailed information about the sources of their funds, he did not provide this information in the source of funds document.⁵⁹⁷ The firm's customers were supposed to complete and submit annual questionnaires, but there was no automatic trigger alerting the firm that a customer had failed to submit such a questionnaire.⁵⁹⁸ Although Lek testified that he compared any updated annual questionnaire to older questionnaires from the same customer, there was no procedure for documenting Lek's review.⁵⁹⁹ Lek Securities did not appear to have a follow-up process to verify

⁵⁹² *Dep't of Enforcement v. C.L. King & Assocs., Inc.*, No. 2014040476901, 2019 FINRA Discip. LEXIS 43, at *84-85 (NAC Oct. 2, 2019).

⁵⁹³ Tr. 2671-72 (Faulconbridge).

⁵⁹⁴ Tr. 2671 (Faulconbridge).

⁵⁹⁵ 31 U.S.C. § 5318(h)(1)(B).

⁵⁹⁶ Tr. 4301, 4303-04 (Lek). For example, Respondents' Exhibit ("RX-") 16 was the source of funds document for Customer M. The pre-printed answer that Customer M filled in and checked for its source of funds stated only, "The individual has been an investor for over 30 years and as such accumulated wealth in excess of \$5mill +." RX-16, at 2. There is no more information as to Customer M's source of funds.

⁵⁹⁷ Tr. 4304-05.

⁵⁹⁸ Tr. 1958-59 (Lek). The annual questionnaire form was admitted into evidence as RX-336.

⁵⁹⁹ Tr. 1956-57 (Lek).

the accuracy of information received from customers. Without such a process, the firm could have allowed inaccurate information from customers to be stored in its books and records. Thus, the Hearing Panel questions the accuracy and completeness of Lek Securities' information about the firm's customers.

Fourth, Lek Securities' exception report system was deficient. Even when the firm's exception reports detected potentially suspicious activity, Lek Securities and Lek failed to investigate such activity and to document the results. Lek concentrated all compliance and supervisory review of exception reports in himself by becoming the "super reviewer."⁶⁰⁰ When addressing exception reports relating to liquidation activity by multiple customers across different low-priced securities, Lek entered a single, conclusory comment that evidenced no investigation. Lek's minimal input was insufficient to constitute an exception report system.

2. Deficiencies in the Detection and Investigation of Red Flags

In 2019, FINRA issued FINRA Regulatory Notice 19-18, titled "FINRA Provides Guidance to Firms Regarding Suspicious Activity Monitoring and Reporting Obligations."⁶⁰¹ This Regulatory Notice listed money laundering red flags, including all the red flags in FINRA's original guidance in Regulatory Notice 02-21.⁶⁰² In his Initial Report, the Independent Consultant noted the importance of the red flags in Regulatory Notice 19-18, particularly for low-priced securities:

They have been the subject of extensive discussion in the preparation of this Initial Report. [LSC's] WSP, most recently updated as of October 15, 2019, remains focused on [earlier regulatory notices and] does not contain a discussion of, or inclusion of these potential red flags. . . . In fact, [Regulatory Notice 19-18] contains a number of potential red flags relating to the microcap securities business that are completely absent from previous regulatory guidance.⁶⁰³

The Independent Consultant and Lek had extensive discussions about the need to incorporate into Lek Securities' WSPs the red flags in FINRA Regulatory Notice 19-18.⁶⁰⁴ These red flags are instrumental to the obligation of FINRA member firms to detect, investigate, and report suspicious activity. Some red flags are well known. For example, when the issuer of a

⁶⁰⁰ Tr. 982-85 (Lek).

⁶⁰¹ Stip. ¶ 51; Regulatory Notice 19-18, at 3 (May 2019), <https://finra.org/rules-guidance/notices/19-18>.

⁶⁰² Stip. ¶ 51.

⁶⁰³ Stip. ¶ 52.

⁶⁰⁴ Tr. 458, 515-16 (Lek).

low-priced security is a shell company.⁶⁰⁵ Another is stock promotion activity within six months of a deposit.⁶⁰⁶

Below, the Hearing Panel finds that red flags set forth in Regulatory Notice 19-18 were evident in the deposits and trading of low-priced securities by Lek Securities' customers.

a. Bravatek Solutions, Inc.

The deposits and securities trading in BVTk effected by Customer A exhibited red flags set forth in Regulatory Notice 19-18. These securities were issued by a shell company.⁶⁰⁷ As of September 2019, BVTk had assets of \$151,269, total liabilities of \$8,436,716, and a negative net worth of \$8,285,447.⁶⁰⁸ BVTk had a working capital deficit of \$8,291,261.⁶⁰⁹ BVTk had total sales of \$26,849, an operating loss of \$3,185,951, total other expenses of \$4,808,194, and a net loss of \$7,994,145.⁶¹⁰

BVTk's SEC filings were not current.⁶¹¹ In March 2020, the company filed with the SEC a Report on Form 8-K "to delay the filing of its Annual Report on Form 10-K for the year ended December 31, 2019, . . . due to the circumstances related to COVID-19."⁶¹² BVTk was undergoing a business combination.⁶¹³ According to a February 2020 article in *Homeland Security Today*, BVTk entered into a "Strategic Alliance Agreement" with Z Systems, a company that purportedly marketed a disinfectant with a proprietary antimicrobial coating.⁶¹⁴

There was a sudden spike in investor demand for, coupled with a rising price in, BVTk securities.⁶¹⁵ From April 9 through April 15, 2020, the price of BVTk common stock increased from \$0.002 per share to \$0.008 per share—a four-fold increase.⁶¹⁶

⁶⁰⁵ Tr. 1372-73 (Lek).

⁶⁰⁶ *SEC v. Alpine Sec. Corp.*, 354 F. Supp. 3d 396, 4334-35 (S.D.N.Y. 2018), *aff'd*, 982 F.3d 68 (2d Cir. 2020).

⁶⁰⁷ Regulatory Notice 19-18, at 5, 12. A shell company is a company with no or nominal operations, no or nominal assets, or assets consisting solely of cash and cash equivalents. 17 C.F.R. § 230.405.

⁶⁰⁸ CX-48, at 4.

⁶⁰⁹ CX-48, at 24.

⁶¹⁰ CX-47, at 21.

⁶¹¹ Regulatory Notice 19-18, at 5.

⁶¹² CX-55, at 3.

⁶¹³ Regulatory Notice 19-18, at 5.

⁶¹⁴ CX-49.

⁶¹⁵ Regulatory Notice 19-18, at 6.

⁶¹⁶ CX-15, at 2.

b. Brewbilt Manufacturing Inc.

The deposits and securities trading in BBRW effected by Customer F exhibited red flags set forth in Regulatory Notice 19-18. These securities were issued by a shell company.⁶¹⁷ BBRW had total assets of \$949,010, total liabilities of \$6,810,483, and a negative net worth of \$5,861,473.⁶¹⁸ There was no information as to how, with BBRW's liabilities and negative net worth, the company was able to earn \$13,068,808 in income from a "derivative liability valuation."⁶¹⁹

BBRW went through recent business combinations.⁶²⁰ In November 2019, BBRW merged with Vet Online Supply, a company engaged in the online sale of holistic products for pets.⁶²¹ A press release issued in June 2020 announced that BBRW had entered into "three major strategic partnerships as a conduit for increasing their customer base for the brewery and cannabis revenues."⁶²² The market was affected by a sudden spike in the price of the company's securities.⁶²³ From May 22 to May 28, 2020, the price of BBRW common stock increased from less than \$0.01 per share to more than \$0.05 per share—a five-fold increase.⁶²⁴

c. Illustrato Pictures International Inc.

The deposits and trading in ILUS effected by Customer E exhibited red flags set forth in Regulatory Notice 19-18. The deposits involved a large block of ILUS securities, which were thinly traded and low-priced.⁶²⁵ Within three months, from January through March 2021, Customer E deposited 284,000,000 shares of ILUS common stock with a market value of \$17,170,960.⁶²⁶ ILUS was a shell company.⁶²⁷ As of June 2019, ILUS had \$5,709 in current assets and a \$141,879 receivable due from one of the company's officers.⁶²⁸ ILUS had total liabilities of \$561,645 and a net worth of \$59,284.⁶²⁹

⁶¹⁷ Regulatory Notice 19-18, at 5.

⁶¹⁸ CX-77, at 21.

⁶¹⁹ CX-77, at 22.

⁶²⁰ Regulatory Notice 19-18, at 5.

⁶²¹ CX-77, at 5.

⁶²² CX-84, at 1.

⁶²³ Regulatory Notice 19-18, at 6.

⁶²⁴ CX-19, at 2.

⁶²⁵ Regulatory Notice 19-18, at 5.

⁶²⁶ CX-20, at 1; JX-324, at 1.

⁶²⁷ Regulatory Notice 19-18, at 5.

⁶²⁸ JX-298, at 13.

⁶²⁹ JX-298, at 13.

ILUS had been through recent name changes and business combinations.⁶³⁰ In 2018, ILUS had been known as Cache Elite, Inc.⁶³¹ At that time, the company was following through on a “Term Sheet for Plan of Merger.”⁶³² In a press release issued in January 2021, ILUS announced its plan to execute a roll-up strategy of acquiring other companies, and “[t]he first acquisition signed is an international technology group FB Technologies Global Inc, known as FireBug Group.”⁶³³ ILUS’s filings with the SEC were not current.⁶³⁴ Lek testified that ILUS “was for a long time dark and wasn’t doing anything.”⁶³⁵

Customer E’s deposits of ILUS securities included one or more questionable legal opinion letters.⁶³⁶ One of these referenced a promissory note whose amount, date, and other terms were different from those of the promissory note itself.⁶³⁷ The market was affected by a sudden spike in the price of ILUS securities.⁶³⁸ In a six-week period in February and March 2021, the price of ILUS common stock rose from \$0.02 per share to more than \$0.16 per share—an eight-fold increase.⁶³⁹

d. Blue Water Global Group, Inc.

The deposits and securities trading in BLUU effected by Lek Securities’ customers exhibited red flags set forth in Regulatory Notice 19-18. The customers deposited large blocks of BLUU securities.⁶⁴⁰ Over a single month, four customers deposited 1,030,689,273 (i.e., one billion) shares of BLUU common stock with a market value of \$3,493,108.⁶⁴¹ These shares represented a large percentage of the float for the company’s common stock.⁶⁴² As of February 2021, BLUU had 2,609,096,031 shares of common stock outstanding.⁶⁴³

⁶³⁰ Regulatory Notice 19-18, at 5.

⁶³¹ JX-297, at 6, 9.

⁶³² JX-297, at 6.

⁶³³ JX-300, at 3.

⁶³⁴ Regulatory Notice 19-18, at 5.

⁶³⁵ Tr. 3903 (Lek).

⁶³⁶ Regulatory Notice 19-18, at 5.

⁶³⁷ Tr. 3211-12 (Fraunhofer); JX-319, at 29.

⁶³⁸ Regulatory Notice 19-18, at 6.

⁶³⁹ CX-20, at 2.

⁶⁴⁰ Regulatory Notice 19-18, at 5.

⁶⁴¹ CX-16, at 1.

⁶⁴² Regulatory Notice 19-18, at 5.

⁶⁴³ JX-130, at 64.

BLUU was a shell company.⁶⁴⁴ In 2015, BLUU had total assets of \$725,825, total liabilities of \$3,436,894, and a negative net worth of \$2,711,069.⁶⁴⁵ BLUU had sales of \$2,157, a loss from operations of \$118,944, and a net loss of \$588,458.⁶⁴⁶ In a 2015 Quarterly Report on Form 10-Q, BLUU stated it “has experienced net losses and negative cash flows from operations since inception and expects these conditions to continue for the foreseeable future.”⁶⁴⁷ The company filed for Chapter 11 bankruptcy reorganization in November 2020.⁶⁴⁸ BLUU reported that it had no assets, no employees, and no wages.⁶⁴⁹

BLUU had no business or products.⁶⁵⁰ BLUU was supposed to be a chain of casual dining restaurants, but it did not own a single restaurant. BLUU’s business license was revoked in 2017.⁶⁵¹ In a January 2021 Chapter 11 bankruptcy filing, BLUU admitted it had not been operating for many years.⁶⁵² The company was not current in its SEC filings.⁶⁵³ In November 2020, BLUU reported to the SEC that the company “has commenced with certain legal and accounting procedural steps to return to being an SEC reporting entity.”⁶⁵⁴

Seemingly unrelated customers deposited BLUU securities in a manner that suggested coordination.⁶⁵⁵ In less than a month, four customers deposited a billion shares of BLUU,⁶⁵⁶ a company that was bankrupt, had no assets, and whose business license had been revoked. The market value of the deposits was \$3,465,481. The market was affected by a sudden spike in the price of BLUU securities.⁶⁵⁷ From February 2 through February 8, 2021, the price of BLUU common stock increased from \$0.0008 per share to \$0.0102 per share—a twelve-fold increase.⁶⁵⁸

⁶⁴⁴ Regulatory Notice 19-18, at 5.

⁶⁴⁵ JX-120, at 4-5.

⁶⁴⁶ JX-120, at 6.

⁶⁴⁷ JX-120, at 10.

⁶⁴⁸ JX-121, at 2. A deposit package submitted to Lek Securities contained a legal opinion letter in which the attorney stated, “On or around January 14, 2021 the Company entered Chapter 11 reorganization.” JX-131, at 4.

⁶⁴⁹ JX-125, at 2.

⁶⁵⁰ Regulatory Notice 19-18, at 5.

⁶⁵¹ JX-140, at 1-2.

⁶⁵² JX-124, at 24.

⁶⁵³ Regulatory Notice 19-18, at 5.

⁶⁵⁴ JX-121, at 2.

⁶⁵⁵ Regulatory Notice 19-18, at 5.

⁶⁵⁶ CX-16, at 1.

⁶⁵⁷ Regulatory Notice 19-18, at 6.

⁶⁵⁸ CX-16, at 2.

e. Quanta, Inc.

The deposits and trading in QNTA securities effected by Lek Securities' customers exhibited red flags set forth in Regulatory Notice 19-18. The customers deposited large blocks of QNTA securities.⁶⁵⁹ In a four-month period, three customers deposited 19,150,000 shares of QNTA common stock with a market value of \$1,651,960.⁶⁶⁰ These seemingly unrelated customers deposited the same low-priced security in a manner that suggested coordination.⁶⁶¹

QNTA was a shell company.⁶⁶² In 2017, QNTA had total assets of \$32,016, total liabilities of \$169,271, and a negative net worth of \$137,255.⁶⁶³ QNTA disclosed in 2021, "We have yet to establish any history of profitable operations."⁶⁶⁴ QNTA had been through several recent name changes and business combinations.⁶⁶⁵ Until early 2021, QNTA's called itself Freight Solution. The company's purported business was "an uber-type application for the less-than-truckload . . . service industry."⁶⁶⁶ Then the company changed its name to QNTA and acquired a 51 percent ownership interest in Medolife Rx, the purported manufacturer of a polarized scorpion venom product.

The market was affected by a spike in the price of QNTA securities.⁶⁶⁷ In a single day, around April 27, 2021, the price of QNTA common stock increased from \$0.05 per share to nearly \$0.2 per share—a four-fold increase.⁶⁶⁸

f. South Beach Spirits, Inc.

The deposits and trading in SBES securities effected by Customer M and Customer O exhibited red flags set forth in Regulatory Notice 19-18. These customers deposited large blocks of SBES securities.⁶⁶⁹ Over the course of a year, they deposited 3,289,350,642 (i.e., 3.3 billion) shares of SBES common stock, with a market value of \$7,816,406.⁶⁷⁰ These shares represented a

⁶⁵⁹ Regulatory Notice 19-18, at 5.

⁶⁶⁰ CX-17, at 1.

⁶⁶¹ Regulatory Notice 19-18, at 5; CX-17, at 1.

⁶⁶² Regulatory Notice 19-18, at 5.

⁶⁶³ JX-141, at 35.

⁶⁶⁴ JX-145, at 26.

⁶⁶⁵ Regulatory Notice 19-18, at 5.

⁶⁶⁶ JX-141, at 5.

⁶⁶⁷ Regulatory Notice 19-18, at 6.

⁶⁶⁸ CX-17, at 2.

⁶⁶⁹ Regulatory Notice 19-18, at 5.

⁶⁷⁰ CX-18, at 1.

large percentage of the float for SBES common stock.⁶⁷¹ Before the deposits, SBES had three billion shares authorized. In a filing with the SEC, Customer M disclosed it owned more than five percent of a class of equity securities in the company.⁶⁷² Two unrelated customers deposited SBES at roughly the same time and in a manner that suggested coordination.⁶⁷³

SBES was a shell company.⁶⁷⁴ SBES filed Pink Sheets Disclosure Statements admitting it was a shell company.⁶⁷⁵ SBES had no apparent business, revenues, or products.⁶⁷⁶ In a Pink Sheets Disclosure Statement, SBES reported no assets, a single liability, no income, and no operations.⁶⁷⁷

SBES was not current in its SEC filings.⁶⁷⁸ The company even incurred significant delays in getting Pink Sheets Disclosure Statements filed with OTCMarkets.com, which would allow it to be “current pink.” SBES’s CEO tweeted in April 2021, “For Sbes shareholders, we still waited to get login credentials for otc market. Then we will bring Sbes to be current pink!”⁶⁷⁹ The next month the CEO tweeted, “To all my SBES shareholders. . . . Current pink is on the way for sure.”⁶⁸⁰ The CEO tweeted in October 2021, “SBES will be pink current very soon. Just uploaded the correct reports.”⁶⁸¹ The next month the CEO tweeted, “To Sbes shareholders, I called OTC market about Current Pink status twice this week. We just need to wait getting current pink.”⁶⁸²

To generate investor interest, SBES announced a new business combination.⁶⁸³ In December 2021, the CEO tweeted, “To all Sbes shareholders, our team has very confident to bring great company to merge in Sbes. finalverse.com from wenyan qin is under construction.”⁶⁸⁴ Finalverse.com was supposed to be a new social media virtual reality platform,

⁶⁷¹ Regulatory Notice 19-18, at 5.

⁶⁷² JX-183, at 24; JX-190, at 2, 4.

⁶⁷³ Regulatory Notice 19-18, at 5; CX-18, at 1.

⁶⁷⁴ Regulatory Notice 19-18, at 3; JX-238, at 1.

⁶⁷⁵ JX-248, at 1; JX-249, at 1; JX-284, at 1.

⁶⁷⁶ Regulatory Notice 19-18, at 5.

⁶⁷⁷ JX-213, at 5, 10-13; Tr. 1365 (Lek).

⁶⁷⁸ Regulatory Notice 19-18, at 3; JX-192, at 17; JX-227, at 29; Tr. 2687 (Faulconbridge).

⁶⁷⁹ CX-75, at 11.

⁶⁸⁰ CX-75, at 18.

⁶⁸¹ CX-75, at 24.

⁶⁸² CX-75, at 24.

⁶⁸³ Regulatory Notice 19-18, at 5.

⁶⁸⁴ CX-75, at 26.

like Facebook’s Metaverse. The CEO tweeted later that month, “To all SBES shareholders, our team had zoom meeting with Finalverse’s management team at 4:30 to 5:30 pm yesterday.”⁶⁸⁵

The customers’ deposits of SBES securities included questionable documents.⁶⁸⁶ In one deposit, the document purporting to evidence that the customer paid for the underlying promissory note did not show the amount paid or the payer.⁶⁸⁷ The market was affected by a spike in the price of SBES securities.⁶⁸⁸ In a single day around March 24, 2021, the price of SBES common stock increased from \$0.003 per share to \$0.0075 per share—more than double.⁶⁸⁹

g. Lek Securities’ Customers

The customers depositing and liquidating low-priced securities at Lek Securities exhibited red flags set forth in Regulatory Notice 19-18. Customer O opened its account at Lek Securities on January 13, 2021.⁶⁹⁰ The address of Customer O was in Miami Beach, Florida. It was the same address as Customer M.⁶⁹¹ In April 2021, the firm sent account statements for Customer O and Customer M to the same address in Miami Beach.⁶⁹² Thus, Lek Securities had available in its books and records information showing these two customers were connected. One of Customer M’s founders died in 2018; he was the father of a co-signor for the account in the name of Customer O.⁶⁹³

Lek Securities’ customers did not exhibit a concern about the amount of the fees the firm charged them.⁶⁹⁴ Most important, they did not object to the \$25,000 monthly fee they had to pay if they did not generate enough business for Lek Securities.⁶⁹⁵ They did not mind paying a \$100,000 cash deposit merely to open an account.

3. Summary of Respondents’ Violation of FINRA Rules 3310 and 2010

The Hearing Panel concludes that Lek Securities and Lek violated FINRA Rules 3310 and 2010 when they failed to develop and implement a reasonable AML program. Lek Securities’ AML supervisory system evidenced several deficiencies, discussed above. Customer

⁶⁸⁵ CX-75, at 37.

⁶⁸⁶ Regulatory Notice 19-18, at 5.

⁶⁸⁷ JX-209, at 5; Tr. 1354 (Lek).

⁶⁸⁸ Regulatory Notice 19-18, at 6.

⁶⁸⁹ CX-18, at 2.

⁶⁹⁰ JX-186, at 1-2; Tr. 1281-82 (Lek).

⁶⁹¹ JX-185, at 1; JX-192, at 2; Tr. 1255-56, 1284 (Lek).

⁶⁹² JX-193; JX-194; Tr. 1289 (Lek).

⁶⁹³ JX-189, at 4, 5, 9; Tr. 1289-90 (Lek).

⁶⁹⁴ Regulatory Notice 19-18, at 11.

⁶⁹⁵ Tr. 156-57 (Lek).

deposits and trading in securities issued by BVTK, BBRW, ILUS, BLUU, QNTA, and SBES exhibited money laundering red flags that Lek Securities and Lek should have detected and investigated, but did not.

E. Lek Securities and Lek Failed to Supervise the Firm’s Low-Priced Securities Business Line, in Violation of FINRA Rules 3110 and 2010

In the fifth cause of action, Enforcement charges Lek Securities and Lek with violating FINRA Rules 3110 and 2010 by failing to establish, maintain, and enforce a supervisory system reasonably designed to supervise the firm’s low-priced securities business line. FINRA Rule 3110 provides, “[e]ach member shall establish and maintain a system to supervise the activities of each associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable FINRA rules.”⁶⁹⁶ FINRA Rule 3110 further provides, “[e]ach member shall establish, maintain, and enforce written procedures to supervise...the activities of its associated persons that are reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable FINRA rules.”⁶⁹⁷ In Regulatory Notice 09-05, FINRA explained a firm’s supervisory responsibilities are “particularly important in situations where the surrounding circumstances place the firm on notice that it may be participating in illegal, unregistered resales of restricted securities.”⁶⁹⁸

Ensuring proper supervision is a critical component of broker-dealer operations.⁶⁹⁹ An adequate supervisory system must include written supervisory procedures tailored to the business lines in which a FINRA member firm engages.⁷⁰⁰ But the presence of written supervisory procedures is not enough to satisfy FINRA Rule 3110.⁷⁰¹ There must also be mechanisms for ensuring compliance and deterring violations.⁷⁰² A supervisor is responsible for *reasonable* supervision, a standard based on the circumstances of each case.⁷⁰³ The duty of supervision includes investigating red flags suggesting that misconduct might be in progress, and acting on

⁶⁹⁶ FINRA Rule 3110(a).

⁶⁹⁷ FINRA Rule 3110(b).

⁶⁹⁸ Regulatory Notice 09-05, at 1 (Jan. 2009), <https://finra.org/rules-guidance/notices/09-05>.

⁶⁹⁹ *C.L. King & Assocs., Inc.*, 2019 FINRA Discip. LEXIS 43, at *41.

⁷⁰⁰ *Id.* at *43.

⁷⁰¹ *Zipper*, 2020 SEC LEXIS 5226, at *39.

⁷⁰² *Southeast Invs., N.C., Inc.*, Exchange Act Release No. 99118, 2023 SEC LEXIS 3460, at *21 (Dec. 7, 2023).

⁷⁰³ *Dep’t of Enforcement v. Clements*, No. 2015044960501, 2018 FINRA Discip. LEXIS 11, at *46-47 (NAC May 17, 2018).

the results of such investigation.⁷⁰⁴ A violation of FINRA Rule 3110 is a violation of FINRA Rule 2010.⁷⁰⁵

1. Systemic Deficiencies in Lek Securities' Supervisory System for Low-Priced Securities

Lek Securities and Lek failed to establish, maintain, and enforce a supervisory system reasonably designed to achieve the firm's compliance with the federal securities laws, federal regulations, and FINRA Rules. The Hearing Panel finds there were several major deficiencies.

First, Lek was the sole supervisor and substantive reviewer in Lek Securities' low-priced securities business line. In this business line, Lek concentrated in himself all supervisory and compliance functions related to the onboarding of customers; the acceptance of securities deposits; and the review of exception reports. He excluded the Compliance Department and the CCO from these functions. He had a conflict of interest arising from his indirect ownership of Lek Securities and his keen interest in maximizing the firm's revenue from customers' deposits and liquidations of low-priced securities. Lek failed to detect and investigate red flags suggesting that illegal misconduct and unregistered distributions of securities might be in progress.

Second, Lek Securities and Lek failed to remedy understaffing in the firm's Compliance Department and the lack of experience and qualifications of the Deposit Specialist. Lek Securities' CCO had additional roles and responsibilities that prevented him from being a dedicated full-time CCO.

Third, Lek Securities and Lek employed a check-the-box review process for low-priced securities that failed to detect readily discoverable red flags. For example, it would have taken Lek about 15 minutes to check the issuer's SEC filings or Pink Sheets Disclosure Statements (all of which are online) to see if the issuer had real business operations, revenue, assets, and net worth. Whenever the Deposit Specialist identified potential misconduct in her review, she was instructed to escalate the issue to a compliance officer or Lek.⁷⁰⁶ Lek was the only person conducting any substantive review, but he was not qualified to perform such a review, given his conflict of interest.

Fourth, in the trading phase, Lek Securities had no process for checking for promotional campaigns or favorable press releases that might have affected the price and volume of a low-priced security. Although Lek Securities had exception reports that were supposed to detect

⁷⁰⁴ *William J. Murphy*, Exchange Act Release No. 69923, 2013 SEC LEXIS 1933, at *48-49 (July 2, 2013); *Dep't of Enforcement v. Dakota Sec. Int'l, Inc.*, No. 2016047565702, 2019 FINRA Discip. LEXIS 11, at *34 (NAC Mar. 18, 2019), *aff'd in part and remanded in part*, Exchange Act Release No. 90737, 2020 SEC LEXIS 5226 (Dec. 21, 2020).

⁷⁰⁵ *C.L. King & Assocs., Inc.*, 2019 FINRA Discip. LEXIS 43, at *41 n.19.

⁷⁰⁶ Stip. ¶ 81.

abnormal market activity, Lek did not follow up with an investigation when such exception reports activated.

2. Deficiencies in the Detection and Investigation of Red Flags

FINRA Regulatory Notice 09-05 sets forth red flags that FINRA member firms must detect and investigate in fulfilling their obligation to determine whether securities are eligible for public sale.⁷⁰⁷ Regulatory Notice 21-03 sets forth red flags specific to potential fraud involving low-priced securities.⁷⁰⁸ Below, the Hearing Panel finds that red flags in these Regulatory Notices were evident in the deposits and trading of low-priced securities by Lek Securities' customers.

a. Bravatek Solutions, Inc.

The deposits and securities trading in BVTK effected by Customer A exhibited red flags set forth in Regulatory Notice 09-05. There was a spike in investor demand for, coupled with a rising price in, BVTK securities; BVTK was a shell company; BVTK was undergoing a business combination; and BVTK's SEC filings were not current.⁷⁰⁹ In an abrupt change in business model, the company represented it was distributing an antimicrobial shield to protect from COVID-19, when shortly before it had been a purported information technology company.⁷¹⁰ BVTK posted on Twitter in February 2020, that "BVTK partner Zoono announced that it has been successfully tested effective against the COVID-19."⁷¹¹

b. Brewbilt Manufacturing Inc.

The deposits and securities trading in BBRW effected by Customer F exhibited red flags set forth in Regulatory Notice 09-05. The market was affected by a sudden spike in the price of BBRW securities; BBRW was a shell company; and BBRW went through one or more business combinations.⁷¹²

c. Illustrato Pictures International Inc.

The deposits and securities trading in ILUS effected by Customer E exhibited red flags set forth in Regulatory Notices 09-05 and 21-03. Customer E deposited a large block of ILUS securities, which were thinly traded and low-priced; the market was affected by a sudden spike in the price of ILUS securities; ILUS was a shell company; ILUS had been through one or more

⁷⁰⁷ Regulatory Notice 09-05, at 3-4.

⁷⁰⁸ Regulatory Notice 21-03, at 3 (Feb. 2021), <https://www.finra.org/rules-guidance/notices/21-03>.

⁷⁰⁹ Regulatory Notice 09-05, at 3-4; CX-15, at 2; CX-47, at 21; CX-48, at 4, 24; CX-55, at 3.

⁷¹⁰ CX-15, at 3-4.

⁷¹¹ CX-61, at 4.

⁷¹² Regulatory Notice 09-05, at 3-4; CX-19, at 2; CX-77, at 5, 21-22; CX-84, at 1.

name changes and business combinations; and the company's filings with the SEC were not current.⁷¹³

ILUS effected abrupt changes in its business model.⁷¹⁴ In May 2019, ILUS's principal products included custom cabinetry and related items.⁷¹⁵ Then ILUS announced it was positioning itself to be a Special Purpose Acquisition Company ("SPAC") looking to engage in business combinations.⁷¹⁶ In January 2021, the company issued a press release titled "ILUS acquires FB Technologies, a global technology company in the Fire & Rescue market & appoints new CEO & Board."⁷¹⁷ The same month, ILUS tweeted, "Next week more detail on the \$ILUS product roll outs, first acquisitions, and the EV strategy and revenue goals and more."⁷¹⁸

Two months later, ILUS expanded from the fire and rescue business into crypto currency. In a press release issued in March 2021, ILUS announced it had signed a financing agreement with Toto Capital Inc. to launch an ILUS crypto token.⁷¹⁹ ILUS stated that, with this crypto token, the company "is expected to simultaneously deliver value and growth to ILUS International Shareholders and increased value and rewards to ILUS token holders."⁷²⁰ The company conducted an increased social media and press release investor outreach campaign, much of it related to the latest trend.⁷²¹ Besides the announcements described above, in February 2021 ILUS tweeted, "As promised more news is coming on the global product roll out strategy in coming days & cap table & the acquisitions & updates as they come through."⁷²²

d. Blue Water Global Group, Inc.

The deposits and trading in BLUU securities effected by Lek Securities' customers exhibited red flags set forth in Regulatory Notices 09-05 and 21-03. The customers' deposits represented a large block of BLUU securities; the deposits constituted a large percentage of the float for BLUU securities; the market was affected by a sudden spike in the price of BLUU securities; BLUU was a shell company; BLUU's SEC filings were not current; and the company

⁷¹³ Regulatory Notice 09-05, at 3-4; Regulatory Notice 21-03, at 3-4; CX-20, at 1-2; JX-297, at 6, 9; JX-298, at 13; JX-319, at 29; JX-324, at 1; Tr. 3211-12 (Fraunhoffer), 3903 (Lek).

⁷¹⁴ Regulatory Notice 21-03, at 3.

⁷¹⁵ JX-297, at 9.

⁷¹⁶ JX-301, at 1.

⁷¹⁷ JX-300, at 1.

⁷¹⁸ CX-90, at 4.

⁷¹⁹ JX-312, at 1-2.

⁷²⁰ JX-312, at 1.

⁷²¹ Regulatory Notice 21-03, at 4; *see, e.g.*, JX-300, at 3.

⁷²² CX-90, at 6.

had no business activities.⁷²³ BLUU was the subject of third-party hyping and promotion.⁷²⁴ In a Report on Form 8-K filed in March 2021, BLUU stated, “The Company has been made aware of certain social media promotions discussing various corporate matters of the issuer.”⁷²⁵ Multiple customers deposited shares of BLUU securities in a manner that suggested coordination.⁷²⁶

e. Quanta, Inc.

The deposits and trading in QNTA securities effected by Lek Securities’ customers exhibited red flags set forth in Regulatory Notices 09-05 and 21-03. The customers’ deposits represented a large block of QNTA securities; the market was affected by a sudden spike in the price of QNTA securities; and the company had been through recent name changes and business combinations.⁷²⁷

QNTA effected abrupt changes and expansions of the company’s business model.⁷²⁸ QNTA’s first business plan was to develop an “Uber-type product” to enable truck drivers to maximize their efficiency in the less-than-truckload shipping industry.⁷²⁹ QNTA abruptly changed its business model in December 2020, when the company described itself as “an applied science company founded in 2016, focusing on increasing energy levels in plant matter to increase performance within the human body.”⁷³⁰ The same month, the company stated its “market-leading CBD pain-relief rub (‘Muscle Rub’), is only the first in a series of paradigm shift products to emerge from our labs.”⁷³¹ Through QNTA’s 51 percent ownership interest in Medolife Rx, the company began to promote a polarized scorpion venom product as a cure for cancer and COVID-19. In April 2021, QNTA was “a direct-to-consumer wellness product portfolio company.”⁷³² In an Annual Report on Form 10-K the following month, QNTA stated it would be “introducing all new branding with new color schemes, new packaging, and exciting celebrity endorsements for the pain relief products and a newly introduced beauty product line.”⁷³³

⁷²³ Regulatory Notice 09-05, at 3-4; Regulatory Notice 21-03, at 3-4; CX-16, at 1-2; JX-120, at 4-6, 10; JX-121, at 2; JX-124, at 24; JX-125, at 2; JX-130, at 64; JX-131, at 4; JX-140, at 1-2.

⁷²⁴ Regulatory Notice 21-03, at 4.

⁷²⁵ JX-134, at 2.

⁷²⁶ Regulatory Notice 21-03, at 3; CX-16, at 1.

⁷²⁷ Regulatory Notice 09-05, at 2; Regulatory Notice 21-03, at 2-3; CX-17, at 1-2; JX-141, at 5, 35; JX-145, at 26.

⁷²⁸ Regulatory Notice 21-03, at 3.

⁷²⁹ JX-141, at 7, 26.

⁷³⁰ JX-145, at 8.

⁷³¹ JX-143, at 28.

⁷³² JX-163, at 2-3.

⁷³³ JX-160, at 5.

The customers' deposits of QNTA securities relied on legal opinion letters signed by an attorney who was associated with multiple issuers of low-priced securities and was on OTCMarkets.com's Prohibited Attorneys list.⁷³⁴

QNTA conducted an increased social media and press release investor outreach campaign, much of it related to the latest trend.⁷³⁵ In a press release issued in March 2021, QNTA stated it was "seeking product registration as a treatment for COVID-19 in the Dominican Republic."⁷³⁶ QNTA stated in another press release that it was "currently involved in various clinical studies on Escozine around the world."⁷³⁷ In another press release, QNTA stated that in clinical trial results, Escozine "eradicated in vitro bladder . . . and ovarian . . . cancer cell lines when administered for 24 hours."⁷³⁸

QNTA stated in another press release that it had filed data on Escozine "with the United States Food and Drug Administration (FDA) where it is seeking an Investigational New Drug (IND) approval pathway."⁷³⁹ In another press release the company stated, "After the review of the data and barring any further inquiries or requests, the FDA will designate IND status for Escozine, essentially allowing the drug to be distributed in the US."⁷⁴⁰ QNTA stated in another press release that in pre-clinical study results, Escozine "has a synergistic effect in killing leukemia and lymphoma cancer cell lines and cancer cells."⁷⁴¹ In another press release, Medolife Rx's CEO stated that the Dominican Republic's purported registration of Escozine "creates an unbelievable revenue generation opportunity for our company in that the product can be off-label prescribed for treatment of COVID-19 patients as a supportive therapy where vaccination progression has been slow."⁷⁴²

Purportedly independent news coverage prominently featured and advertised QNTA's new potential business prospects, which were related to the latest trend.⁷⁴³ A May 2021 article titled "Small Cap Stocks to Watch" in the online publication *Insider Financial* stated, "QNTA was the big runner on Friday after rocketing up the charts 198%!!"⁷⁴⁴ This article described

⁷³⁴ Regulatory Notice 21-03, at 3; JX-150, at 1; JX-159, at 1.

⁷³⁵ Regulatory Notice 21-03, at 3.

⁷³⁶ JX-148, at 2.

⁷³⁷ JX-151, at 2. As stated, Escozine was QNTA's scorpion venom product, which supposedly was a treatment for cancer and COVID-19. *See supra* footnotes 411-416 and accompanying text.

⁷³⁸ CX-64, at 1.

⁷³⁹ JX-155, at 2.

⁷⁴⁰ JX-157, at 1.

⁷⁴¹ JX-163, at 1.

⁷⁴² JX-167, at 2.

⁷⁴³ Regulatory Notice 21-03, at 4.

⁷⁴⁴ JX-165, at 7.

QNTA as “a COVID-19 play after the company filed its final set of data requested by the US Food and Drug Administration (FDA) for its Pre-Investigational New Drug . . . filing on its lead drug candidate Escozine as a COVID-19 therapeutic.”⁷⁴⁵ In another red flag, customers deposited QNTA securities in a manner that suggested coordination.⁷⁴⁶

f. South Beach Spirits, Inc.

The deposits and trading in SBES securities effected by Customer M and Customer O exhibited red flags set forth in Regulatory Notices 09-05 and 21-03. These customers deposited large blocks of SBES securities; the deposits represented a large percentage of the float for the company’s securities; the market was affected by a sudden spike in the price of the company’s securities; SBES was a shell company; and SBES was not current in its SEC filings.⁷⁴⁷

SBES effected an abrupt change and expansion of its business model to benefit from the latest trend.⁷⁴⁸ SBES claimed to be merging with a virtual reality platform, the “Finalverse.”⁷⁴⁹ The company conducted an increased social media investor outreach campaign.⁷⁵⁰ The company’s CEO posted multiple tweets touting its efforts to get current in its Pink Sheets Disclosure Statements and to achieve “current pink” on OTCMarkets.com.⁷⁵¹ Purportedly independent news coverage prominently featured SBES and advertised the company’s new potential business prospects.⁷⁵² In December 2021, a periodical called *Micro Cap Daily* reported that the CEO “and his team are working behind the scenes to bring a great company to merge with SBES. . . . The Company is also developing the domain <http://Finalverse.com>.”⁷⁵³

g. Lek Securities’ Customers

The customers depositing and liquidating low-priced securities at Lek Securities exhibited red flags set forth in Regulatory Notice 21-03. The customers deposited large blocks of thinly traded, low-priced securities, including securities issued by companies that had recently changed business models to take advantage of the latest trend.⁷⁵⁴ Multiple customers deposited

⁷⁴⁵ JX-165, at 7.

⁷⁴⁶ Regulatory Notice 21-03, at 3; CX-17, at 1.

⁷⁴⁷ Regulatory Notice 09-05, at 3-4; CX-18, at 1-2; CX-75, at 11, 18, 22, 24, 26, 37; JX-183, at 24; JX-190, at 2, 4; JX-192, at 17; JX-209, at 5; JX-213, at 5, 10-13; JX-227, at 29; JX-248, at 1; JX-249, at 1; JX-284, at 1; Tr. 1354, 1365 (Lek), 2687 (Faulconbridge).

⁷⁴⁸ Regulatory Notice 21-03, at 3.

⁷⁴⁹ CX-75, at 26.

⁷⁵⁰ Regulatory Notice 21-03, at 4.

⁷⁵¹ CX-75, at 11, 18, 22, 24.

⁷⁵² Regulatory Notice 21-03, at 4.

⁷⁵³ JX-273, at 1.

⁷⁵⁴ Regulatory Notice 21-03, at 4.

securities of the same issuer.⁷⁵⁵ Four customers deposited and liquidated a billion shares of BLUU common stock over a five-month period.⁷⁵⁶ Two customers deposited and liquidated 3.3 billion shares of SBES common stock over a one-year period.⁷⁵⁷ In 15 months, Customer O deposited at Lek Securities hundreds of millions of shares in low-priced securities it had obtained through conversions of promissory notes.⁷⁵⁸ Lek Securities did not monitor these deposits to verify whether the issuer had enough authorized shares to make the conversions possible.⁷⁵⁹

3. Summary of Respondents' Violation of FINRA Rules 3110 and 2010

The Hearing Panel concludes that Lek Securities and Lek violated FINRA Rules 3110 and 2010 when they failed to establish, maintain, and enforce a supervisory system designed to ensure that the firm's low-priced securities business line complied with federal securities laws, federal regulations, and FINRA Rules. Lek Securities' supervisory system evidenced several major deficiencies, discussed above. Customer deposits and trading in securities issued by BVTK, BBRW, ILUS, BLUU, QNTA, and SBES exhibited red flags that Lek Securities and Lek should have detected and investigated, but did not.

F. Lek Securities Willfully Failed to Retain Records Relating to Unapproved Communication Methods, in Violation of Section 17 of the Securities Exchange Act of 1934, Rule 17a-4 thereunder, and FINRA Rules 4511 and 2010

In the sixth cause of action, Enforcement charges Lek Securities with violating Section 17 of the Exchange Act, Exchange Act Rule 17a-4, and FINRA Rules 4511 and 2010, by willfully failing to retain or review for compliance purposes: (1) Lek UK emails; (2) text messages sent and received by Lek Securities' Head Trader (Michael Mainwald); and (3) WhatsApp communications sent by the firm's employees. FINRA Rule 4511 provides, "Members shall make and preserve books and records as required under the FINRA rules, the Exchange Act and the applicable Exchange Act rules."⁷⁶⁰ Section 17 of the Exchange Act requires that a broker-dealer "make and keep for prescribed periods such records, [and] furnish such copies thereof . . . as the Commission, by rule, prescribes as necessary . . . for the protection of investors, or otherwise in furtherance of . . . this [Act]."⁷⁶¹ According to Exchange Act Rule

⁷⁵⁵ Regulatory Notice 21-03, at 5.

⁷⁵⁶ CX-16, at 1; JX-139, at 1.

⁷⁵⁷ CX-18, at 1; JX-295, at 1-2.

⁷⁵⁸ CX-18, at 1; Tr. 1420-21 (Lek).

⁷⁵⁹ Tr. 1421 (Lek).

⁷⁶⁰ FINRA Rule 4511(a).

⁷⁶¹ 15 U.S.C. § 78q(a)(1); *accord Dep't of Enforcement v. Spencer Edwards, Inc.*, No. 2013035865303, 2019 FINRA Discip. LEXIS 56, at *56-57 (NAC Dec. 10, 2019).

17a-4, a broker-dealer must retain originals of all communications received or sent by the broker-dealer relating to its business for at least three years:

Every member, broker or dealer . . . must preserve for a period of not less than three years, the first two years in an easily accessible place . . . Originals of all communications received and copies of all communications sent (and any approvals thereof) by the member, broker or dealer (including inter-office memoranda and communications) relating to its business as such, including all communications which are subject to rules of a self-regulatory organization of which the member, broker or dealer is a member regarding communications with the public.⁷⁶²

Scienter is not required to prove a books and records violation under FINRA Rule 4511.⁷⁶³ A violation of FINRA Rule 4511 is a violation of FINRA Rule 2010.⁷⁶⁴

Lek Securities employees communicated with each other and with firm customers by text messages, Lek UK emails, and WhatsApp messages. These electronic communications related to Lek Securities' business as such. Yet text messages, WhatsApp messages, and Lek UK email accounts were not systems sponsored by Lek Securities.⁷⁶⁵ The employees who engaged in these communications included Lek and most of his senior management. Lek had a Lek UK email account because of his position there, and he used that account to communicate with Lek Securities employees and the firm's low-priced securities customers.⁷⁶⁶ Lek Securities failed to retain Lek UK's emails, the text messages, and WhatsApp messages, and did not review these communications for compliance purposes. For these reasons, the Hearing Panel concludes that Lek Securities violated Section 17 of the Exchange Act, Rule 17a-4 thereunder, and FINRA Rules 4511 and 2010, when the firm failed to retain and review the electronic communications, as alleged in the sixth cause of action.

The Complaint alleges that Lek Securities' conduct in violation of Section 17 and Rule 17a-4 was willful under Section 3(a)(39) of the Exchange Act. A broker-dealer that has willfully committed or omitted any act in violation of Section 17 and Rule 17a-4 is subject to statutory disqualification as to the firm's membership or participation in a self-regulatory organization.⁷⁶⁷ A violation is willful under Section 3(a)(39) when the firm intentionally committed the act that

⁷⁶² 17 C.F.R. § 240.17a-4(b)(4).

⁷⁶³ *Dep't of Enforcement v. Milberger*, No. 2015047303901, 2020 FINRA Discip. LEXIS 24, at *16 (NAC Mar. 27, 2020).

⁷⁶⁴ *Id.*

⁷⁶⁵ CX-121, at 1-2; Tr. 1554 (Lek).

⁷⁶⁶ Tr. 1549-50 (Lek); CX-120; CX-122; CX-127.

⁷⁶⁷ 15 U.S.C. §§ 78c(a)(39), 78o(b)(4).

constitutes the violation.⁷⁶⁸ The firm acted willfully if it acted with extreme recklessness.⁷⁶⁹ Willfulness does not require proof that the firm knew it was violating the securities laws.⁷⁷⁰

The principals and supervisors of Lek Securities knew the firm had a duty to retain business-related communications, that employees used unapproved methods of communication, and that the firm did not retain such communications.⁷⁷¹ Thus, the Hearing Panel concludes that Lek Securities' failure to retain records of electronic communications was willful. Lek Securities therefore is subject to statutory disqualification.⁷⁷²

G. Lek Securities' and Lek's Constitutional Defense

Lek Securities and Lek raise a Constitutional defense to this disciplinary proceeding. Respondents contend that, when FINRA exercises its disciplinary authority against a FINRA member firm and an associated person, it is doing so under color of federal law as a deputy of the United States government.⁷⁷³ Further, because FINRA Hearing Officers serve a function allegedly identical to the SEC's administrative law judges (Respondents maintain), such Hearing Officers must be appointed by an executive authority under the Appointments Clause of Article II of the Constitution.⁷⁷⁴ And, they argue, because the undersigned Hearing Officer was not appointed by executive authority, this disciplinary proceeding violates the Constitution, and all six causes of action of Enforcement's Complaint must be dismissed in favor of Lek Securities and Lek.

The Hearing Panel concludes that the Constitutional argument made by Lek Securities and Lek is not valid. Most rights secured by the Constitution are protected against infringement only if such infringement is perpetrated by a *government*.⁷⁷⁵ But, contrary to Respondents'

⁷⁶⁸ *Richard Allen Riemer, Jr.*, Exchange Act Release No. 84513, 2018 SEC LEXIS 3022, at *13 (Oct. 31, 2018).

⁷⁶⁹ *Dep't of Enforcement v. Tranchina*, No. 2018058588501, 2023 FINRA Discip. LEXIS 3, at *31-32 (NAC Mar. 23, 2023), *appeal docketed*, No. 3-21390 (SEC Apr. 20, 2023).

⁷⁷⁰ *Allen Holeman*, Exchange Act Release No. 86523, 2019 SEC LEXIS 1903, at *38 (SEC July 31, 2019), *petition for review denied*, No. 19-1251, 2021 U.S. App. LEXIS 208 (D.C. Cir. Jan. 5, 2021).

⁷⁷¹ CX-121; CX-157, at 44.

⁷⁷² Under FINRA's By-Laws, no FINRA member firm may continue in membership if it becomes subject to statutory disqualification under Section 3(a)(39). FINRA By-Laws, Article 3, Sections 3-4. A member firm subject to statutory disqualification may be allowed to remain a member provided it promptly files FINRA's Form MC-400A Application requesting approval of its continued membership, and the disqualifying event does not involve a licensing sanction, such as a bar, revocation, or expulsion. *See* FINRA Rule 9523.

⁷⁷³ Respondents' Brief 75.

⁷⁷⁴ *Id.* 77.

⁷⁷⁵ *Lugar v. Edmondson Oil Co.*, 457 U.S. 922, 936 (1982).

argument, FINRA is not a “deputy” or instrument of the federal government. Every court to have considered this argument has rejected it.⁷⁷⁶

Being a deputy or instrument of the federal government requires evidence of permanent control by the government. But the government does not control FINRA.⁷⁷⁷ First, the government did not create FINRA, by special law or otherwise.⁷⁷⁸ Second, although FINRA sometimes furthers government objectives articulated by the SEC, it also performs many functions outside the mandate of that agency, such as administering registered person qualification examinations and creating and enforcing professional standards for member firms and associated persons.⁷⁷⁹ Third, FINRA’s Board of Governors is not under the control of federal government appointees or officers.⁷⁸⁰ Instead, the Governors are elected according to FINRA’s own By-Laws. Because FINRA is not a deputy or instrument of the federal government, the Hearing Panel concludes that Respondents’ Constitutional claim lacks merit and declines to dismiss Enforcement’s Complaint.

IV. Sanctions

According to FINRA’s Sanction Guidelines (“Guidelines”), the purpose of the disciplinary process is to protect the investing public, support and improve overall business standards in the securities industry, and decrease the likelihood of recurrence of misconduct by the disciplined respondents.⁷⁸¹ The Guidelines contain General Principles Applicable to All Sanction Determinations, Principal Considerations in Determining Sanctions, and Guidelines applicable to specific violations.

Enforcement seeks a bar against Lek for each of the first five causes of action of the Complaint. Enforcement contends that Lek knowingly caused Lek Securities’ violation of the business line suspension, the firm’s failure to implement all the Independent Consultant’s recommendations, and its violative supervisory, compliance, and AML monitoring systems for its low-priced securities business line. Similarly, Enforcement seeks to expel Lek Securities from FINRA membership because of the firm’s FINRA Rule violations as alleged in the first five causes of action.

⁷⁷⁶ *Scottsdale Cap. Advcs. Corp. v. FINRA*, 2023 U.S. Dist. LEXIS 99350, at *4-5 (D.D.C. June 7, 2023).

⁷⁷⁷ *Herron v. Fannie Mae*, 861 F.3d 160, 168 (D.C. Cir. 2017).

⁷⁷⁸ *Lebron v. Nat’l R.R. Passenger Corp.*, 513 U.S. 374, 399 (1995).

⁷⁷⁹ *Turbeville v. FINRA*, 874 F.3d 1268, 1271 (11th Cir. 2017).

⁷⁸⁰ *Herron*, 861 F.3d at 167.

⁷⁸¹ Guidelines at 2 (2022) (General Principle No. 1), <https://finra.org/rules/guidance/sanctionguidelines>.

A. Aggravating Factors

The Principal Considerations of the Sanction Guidelines set forth aggravating factors that adjudicators should address in their sanction determinations. The Hearing Panel finds many aggravating factors in this case.

Lek Securities has a relevant disciplinary history.⁷⁸² In a disciplinary proceeding commenced against Lek Securities in 2013, a FINRA Hearing Panel found that the firm had failed to design and implement reasonable AML policies, procedures, and internal controls tailored to its business model. This Hearing Panel fined Lek Securities \$100,000. In a 2018 disciplinary proceeding that Lek Securities settled, Enforcement alleged that the firm's supervisory procedures, including its WSPs, were inadequate and failed to achieve the minimum requirements for adequate supervision. Without admitting or denying liability, Lek Securities agreed to retain an independent consultant to conduct a comprehensive review of the firm's policies, systems, WSPs, and training relating to the alleged violations.

Lek Securities and Lek failed to accept responsibility for and acknowledge their misconduct to a regulator before detection and intervention.⁷⁸³ Instead of correcting the deficiencies in the firm's AML and supervisory systems for their low-priced securities business line, Lek Securities and Lek failed to implement 15 of the recommendations of the Independent Consultant. Ironically, Lek Securities and Lek were obligated to retain this regulatory expert for the very purpose of conducting a comprehensive review of the firm's supervisory systems and recommending remedial measures.⁷⁸⁴ Respondents engaged in many acts and a pattern of misconduct.⁷⁸⁵ They engaged in the misconduct for more than a year.⁷⁸⁶ Lek's lack of credibility in the hearing reflects negatively on his fitness to serve in the securities industry.⁷⁸⁷

Lek Securities' and Lek's misconduct resulted in injury to the investing public.⁷⁸⁸ Investors bought worthless low-priced securities in companies that did not have significant

⁷⁸² *Id.* at 7 (Principal Consideration No. 1: The respondent's relevant disciplinary and arbitration history).

⁷⁸³ *Id.* (Principal Consideration No. 2: Whether the respondent accepted responsibility for and acknowledged the misconduct to a regulator prior to detection and intervention by the regulator).

⁷⁸⁴ *Id.* (Principal Considerations Nos. 3: Whether the respondent voluntarily employed subsequent corrective measures, prior to detection or intervention, and 4: Whether the respondent voluntarily and reasonably attempted, prior to detection and intervention, to remedy the misconduct).

⁷⁸⁵ *Id.* (Principal Consideration No. 8: Whether the respondent engaged in numerous acts or a pattern of misconduct).

⁷⁸⁶ *Id.* (Principal Consideration No. 9: Whether the respondent engaged in the alleged misconduct over an extended period of time).

⁷⁸⁷ *Dep't of Mkt. Reg. v. Burch*, No. 2005000324301, 2011 FINRA Discip. LEXIS 16, at *47 (NAC July 28, 2011).

⁷⁸⁸ Guidelines at 7 (Principal Consideration No. 11: With respect to other parties, including the investing public, (a) whether the respondent's misconduct resulted directly or indirectly in injury to such other parties, and (b) the nature and extent of the injury).

business operations, revenue, or assets. Respondents' misconduct was intentional.⁷⁸⁹ Respondents engaged in the misconduct despite prior warnings from FINRA—in the form of an Order Accepting Settlement no less—that such misconduct violated FINRA Rules and applicable securities laws and regulations.⁷⁹⁰ Their misconduct created the potential for their monetary gain in the form of exorbitant fees—as much as \$25,000 per month per account—paid by the customers who effected liquidations of worthless securities.⁷⁹¹ There are no mitigating factors.

With these aggravating factors in mind, the Hearing Panel turns to the sanctions appropriate for each cause of action.

B. Failure to Comply With an Order Accepting Settlement With Regard to a Business Line Suspension, in Violation of FINRA Rule 2010 (First Cause of Action)

There is no FINRA Sanction Guideline for violating a FINRA order accepting a settlement. If the Sanction Guidelines do not specifically address the violation committed, adjudicators should consider the most closely analogous Guideline.⁷⁹² The Order sought to bring Lek Securities into compliance with the firm's legal and regulatory obligations in the deposit and sale of low-priced securities. These liquidations involved unregistered sales of securities. Thus, the Hearing Panel finds that the most analogous Guideline is that for Sales of Unregistered Securities.⁷⁹³

The Guideline for Sales of Unregistered Securities by a small firm recommends a fine of \$5,000 to \$77,000.⁷⁹⁴ Where aggravating factors predominate, adjudicators should consider a fine higher than \$77,000.⁷⁹⁵ Where the firm's conduct involved a high volume of, or recurring transactions in, penny stocks, adjudicators should impose a fine of \$10,000 to \$155,000 or higher where aggravating factors predominate.⁷⁹⁶ As for a suspension, expulsion, or other sanction, adjudicators should consider suspending the firm in the relevant business lines for up to two months and requiring an undertaking that the firm will revise its supervisory procedures for the

⁷⁸⁹ *Id.* at 8 (Principal Consideration No. 13: Whether the respondent's misconduct was the result of an intentional act, recklessness, or negligence).

⁷⁹⁰ *Id.* (Principal Consideration No. 14: Whether the respondent engaged in the misconduct at issue notwithstanding prior warnings from FINRA that the conduct violated FINRA rules or applicable securities laws or regulations).

⁷⁹¹ *Id.* (Principal Consideration No. 16: Whether the respondent's misconduct resulted in the potential for its monetary or other gain).

⁷⁹² *Wedbush Sec., Inc.*, Exchange Act Release No. 78568, 2016 SEC LEXIS 2794, at *44 (Aug. 12, 2016).

⁷⁹³ Guidelines at 23, 88.

⁷⁹⁴ *Id.* at 23.

⁷⁹⁵ *Id.*

⁷⁹⁶ *Id.*

review of the sale of unregistered securities or retain an independent consultant.⁷⁹⁷ Where aggravating factors predominate, or where the firm’s conduct involved a high volume of, or recurring transactions in, penny stocks, adjudicators should consider a suspension longer than two months, or expulsion.⁷⁹⁸

The considerations specific to this Guideline are:

- Whether the firm’s unregistered securities sales resulted from an intentional act, recklessness, or negligence.
- Whether the firm sold before the effective date of a registration statement.
- The share volume of transactions, dollar amount of transactions, and amount of compensation earned by the firm on the transactions involved.
- Whether the sales of unregistered securities were made in connection with an attempt to evade regulatory oversight.
- Whether the firm had implemented procedures that were reasonably designed to ensure that it did not participate in an unregistered distribution.
- Whether the firm disregarded “red flags” suggesting the presence of an unregistered distribution.
- Whether the firm’s conduct involved a high volume of, or recurring transactions in, penny stocks as defined in Section 3(a)(51) of the Exchange Act or Exchange Act Rule 3a51-1.⁷⁹⁹

The Guideline for Sales of Unregistered Securities by an individual recommends a fine of \$2,500 to \$20,000.⁸⁰⁰ Where aggravating factors predominate, adjudicators should consider a fine higher than \$20,000.⁸⁰¹ Where the respondent’s conduct involved a high volume of, or recurring transactions in, penny stocks, adjudicators should impose a fine of \$5,000 to \$40,000 or higher if aggravating factors predominate.⁸⁰² As for a suspension, bar, or other sanction,

⁷⁹⁷ *Id.*

⁷⁹⁸ *Id.* A penny stock is an equity security that trades at less than \$5.00 per share. 15 U.S.C. § 78c(a)(51). It is the same thing as a low-priced security. *See also* <https://www.investopedia.com/terms/p/pennystock.asp>.

⁷⁹⁹ *Id.*

⁸⁰⁰ *Id.* at 88.

⁸⁰¹ *Id.*

⁸⁰² *Id.*

adjudicators should consider suspending the respondent for 10 business days to six months.⁸⁰³ Where aggravating factors predominate, or where the respondent's conduct involved a high volume of, or recurring transactions in, penny stocks, adjudicators should suspend the respondent for up to two years or impose a bar.⁸⁰⁴

The considerations specific to this Guideline are:

- Whether the respondent's unregistered securities sales resulted from an intentional act, recklessness, or negligence.
- Whether the respondent sold before the effective date of a registration statement.
- Share volume of transactions, dollar amount of transactions, and amount of compensation earned by the firm on the transactions involved.
- Whether the sales of unregistered securities were made in connection with an attempt to evade regulatory oversight.
- Whether the respondent disregarded "red flags" suggesting the presence of an unregistered distribution.
- Whether the respondent's conduct involved a high volume of, or recurring transactions in, penny stocks as defined in Section 3(a)(51) of the Exchange Act or Exchange Act Rule 3a51-1.⁸⁰⁵

The Hearing Panel finds that aggravating factors predominate in Lek Securities' and Lek's violation of the business line suspension. Lek knew of the Order but did not go back and read the Order's exception for the sale of low-priced securities. If he had done so, he would have seen there was no support in the terms of the Order for him to advise Michael Mainwald that Lek Securities could sell GNBT, RETC, PPCB, and WCVC even though these securities had been deposited after the Order had been issued. Similarly, in February 2020, Respondents accepted deposits of ETEK, PNATD, and GSPE securities without checking with anyone whether Lek's first communication to FINRA was a sufficient certification to lift the business line suspension. Thus, Respondents' violation of the business line suspension was intentional or, at a minimum, reckless.

In addition, Lek Securities had not implemented procedures reasonably designed to ensure that the firm did not violate the business line suspension. Respondents' violation of the business line suspension involved penny stocks. The Hearing Panel finds that Respondents'

⁸⁰³ *Id.*

⁸⁰⁴ *Id.*

⁸⁰⁵ *Id.*

violation of an Order Accepting Settlement, which is intended to remedy earlier alleged misconduct, is egregious. Their failure to comply with a FINRA Order manifests more than disregard for the authority of FINRA; it also disregards the fundamental principles of good faith, fair dealing, and respect for the markets and investors who trade and invest there. Respondents' recklessness, dishonesty, and self-interest is the antithesis of high standards of commercial honor and just and equitable principles of trade.

Based on the foregoing, for Lek Securities' and Lek's violation of FINRA Rule 2010 as to the business line suspension, the Hearing Panel fines Lek Securities \$155,000 and expels the firm from FINRA membership, and bars Lek from associating in any capacity with any FINRA member firm.

C. Failure to Comply With an Order Accepting Settlement With Regard to the Recommendations of the Independent Consultant, in Violation of FINRA Rule 2010 (Second Cause of Action)

The Hearing Panel applies the same Sanction Guidelines and specific considerations for the second cause of action as for the first cause of action.⁸⁰⁶ We find that aggravating factors predominate in Lek Securities' and Lek's failure to implement all the recommendations in the Independent Consultant's Initial Report. Respondents acted intentionally in failing to implement many recommendations. The recommendations mostly involved supervision of sales of penny stocks. Respondents' failure to implement the recommendations violated the Order Accepting Settlement and was egregious. Based on the foregoing, for Lek Securities' and Lek's violation of FINRA Rule 2010 as to the recommendations of the Independent Consultant, the Hearing Panel fines Lek Securities \$100,000 and fines Lek \$100,000. We would also suspend Lek Securities for one year in the low-priced securities business line and suspend Lek for two years from associating in any capacity with a FINRA member firm but, in light of the expulsions and bars imposed for other causes of action, we decline to impose these suspensions.

D. False Representations to FINRA, in Violation of FINRA Rule 2010 (Third Cause of Action)

There is no FINRA Sanction Guideline for making false representations to FINRA. The most analogous Guideline is that for FINRA Rule 8210 violations. The Sanction Guideline for Failure to Respond Truthfully to Requests Made Pursuant to FINRA Rule 8210 by a small firm recommends a fine of \$25,000 to \$310,000.⁸⁰⁷ As for a suspension, expulsion, or other sanction, adjudicators should consider suspending the firm in the relevant business lines or activities for up to two years. Where aggravating factors predominate, adjudicators should expel the firm.⁸⁰⁸

⁸⁰⁶ *Id.* at 23, 88.

⁸⁰⁷ *Id.* at 30.

⁸⁰⁸ *Id.*

The Guideline for Failure to Respond Truthfully to Requests Made Pursuant to FINRA Rule 8210 by an individual recommends a fine of \$10,000 to \$50,000.⁸⁰⁹ As for a suspension, bar, or other sanction, the Sanction Guidelines treat a failure to respond truthfully to a FINRA Rule 8210 request as equivalent to a complete failure to respond, and provide that a bar is standard for such misconduct.⁸¹⁰

For both a small firm and an individual, the sole consideration specific to this Guideline is the importance of the information requested as viewed from FINRA's perspective.⁸¹¹

The Hearing Panel finds aggravating factors in Lek Securities' and Lek's false representations to FINRA. The information requested—whether Lek Securities and Lek had implemented all the recommendations in the Independent Consultant's Initial Report—was important as viewed from FINRA's perspective. Implementation of the recommendations was important because it was required by the Order Accepting Settlement, and because it was necessary to an effective supervisory system for AML compliance and lawful operation of the low-priced securities business line. Respondents' failure to certify truthfully to FINRA was intentional. Based on the foregoing, for Lek Securities' and Lek's false representations to FINRA in violation of FINRA Rule 2010, the Hearing Panel expels Lek Securities from FINRA membership and bars Lek from associating in any capacity with any FINRA member firm.

E. Failure to Develop and Implement a Reasonable AML Program, in Violation of FINRA Rules 3310 and 2010 (Fourth Cause of Action)

The Sanction Guideline for Failure to Reasonably Monitor to Report Suspicious Transactions by a small firm recommends a fine of \$10,000 to \$310,000.⁸¹² Where aggravating factors predominate, adjudicators should consider a fine higher than \$310,000.⁸¹³ As for a suspension, expulsion or other sanction, adjudicators should consider suspending the firm in the relevant business lines or activities for 10 business days to two months and requiring the firm to retain an independent consultant.⁸¹⁴ Where aggravating factors predominate, adjudicators should consider suspending the firm in the relevant business lines or activities for a period of two months to two years, or expelling the firm.⁸¹⁵

The considerations specific to this Guideline are:

⁸⁰⁹ *Id.* at 93.

⁸¹⁰ *Dep't of Enforcement v. Harari*, No. 2011025899601, 2015 FINRA Discip. LEXIS 2, at *31 (NAC Mar. 9, 2015).

⁸¹¹ Guidelines at 93.

⁸¹² *Id.* at 16.

⁸¹³ *Id.*

⁸¹⁴ *Id.*

⁸¹⁵ *Id.*

- Whether the firm’s monitoring for suspicious transactions was reasonably tailored to the firm’s business.
- Whether the firm failed to detect or investigate “red flags” of suspicious activity.
- Whether the deficiencies in suspicious transaction monitoring allowed reportable activity to escape detection.
- Whether the deficiencies were systemic, widespread, or occurred over an extended period.
- The nature, volume, and dollar value of the transactions at issue, and whether those transactions involved high-risk geographic locations, services, products, or customers.
- Whether the firm failed to timely correct or address deficiencies once identified.⁸¹⁶

The Sanction Guideline for Failure to Reasonably Monitor to Report Suspicious Transactions by an individual recommends a fine of \$5,000 to \$50,000.⁸¹⁷ Where aggravating factors predominate, adjudicators should consider a fine higher than \$50,000.⁸¹⁸ As for a suspension, bar, or other sanction, adjudicators should suspend the respondent for 10 business days to two months.⁸¹⁹ Where aggravating factors predominate, adjudicators should consider suspending the respondent for two months to two years, or imposing a bar.⁸²⁰

The considerations specific to this Guideline are:

- Whether the respondent failed to detect or investigate “red flags” of suspicious activity.
- Whether the deficiencies in the suspicious transaction monitoring allowed reportable activity to escape detection.
- Whether the respondent’s failures were systemic, widespread, or occurred over an extended period.

⁸¹⁶ *Id.*

⁸¹⁷ *Id.* at 83.

⁸¹⁸ *Id.*

⁸¹⁹ *Id.*

⁸²⁰ *Id.*

- Whether the respondent was responsible for establishing the firm’s AML compliance program.⁸²¹

The Hearing Panel finds aggravating factors predominate as to Respondents’ failure to reasonably monitor and report suspicious transactions. Lek Securities’ AML supervisory system was not reasonably tailored to the firm’s low-priced securities business line. The Order Accepting Settlement was intended to remedy Lek Securities’ AML deficiencies through fines and the retention of the Independent Consultant, but these measures failed to remedy the firm’s deficiencies. Respondents failed to detect and investigate red flags of suspicious activity.

Lek Securities’ deficiencies in AML monitoring allowed suspicious activity to escape detection. Respondents’ failure was systemic, widespread, and occurred over an extended period of time. The value of the suspicious transactions Respondents failed to detect and investigate ran into millions of dollars. Based on the foregoing, for Lek Securities’ and Lek’s failure to develop and implement a reasonable AML program in violation of FINRA Rules 3310 and 2010, the Hearing Panel fines Lek Securities \$400,000 and expels the firm from FINRA membership and bars Lek from associating in any capacity with any FINRA member firm.

F. Failure to Supervise the Low-Priced Securities Business Line, in Violation of FINRA Rules 3110 and 2010 (Fifth Cause of Action)

The Sanction Guideline for Systemic Supervisory Failures by a small firm recommends a fine of \$10,000 to \$310,000.⁸²² Where aggravating factors predominate, adjudicators should consider a fine higher than \$310,000.⁸²³ As for a suspension, expulsion or other sanction, where aggravating factors predominate, adjudicators should consider suspending the firm in the relevant business lines or activities for 10 business days to two years, or consider expelling the firm.⁸²⁴ Adjudicators also should consider imposing undertakings, including ordering the firm to revise its supervisory systems and procedures or ordering it to engage an independent consultant to recommend changes to its supervisory systems and procedures.⁸²⁵

The considerations specific to this Guideline are:

- Whether the deficiencies allowed violative conduct to occur or to escape detection.
- Whether the firm failed to timely correct or address deficiencies once identified, failed to respond reasonably to prior warnings from FINRA or

⁸²¹ *Id.*

⁸²² *Id.* at 74.

⁸²³ *Id.*

⁸²⁴ *Id.*

⁸²⁵ *Id.*

another regulator, or failed to respond reasonably to other “red flag” warnings.

- Whether the firm appropriately allocated its resources to prevent or detect the supervisory failure.
- The number and type of customers, investors, or market participants affected by the deficiencies.
- The number and dollar value of the transactions not adequately supervised as a result of the deficiencies.
- The nature, extent, size, character, and complexity of the activities or functions not adequately supervised as a result of the deficiencies.
- The extent to which the deficiencies affected market integrity, market transparency, the accuracy of regulatory reports, or the dissemination of trade or other regulatory information.⁸²⁶

The Sanction Guideline for Systemic Supervisory Failures by an individual recommends a fine of \$10,000 to \$50,000.⁸²⁷ Where aggravating factors predominate, adjudicators should consider a fine higher than \$50,000.⁸²⁸ As for a suspension, bar, or other sanction, adjudicators should consider suspending the respondent for 10 business days to six months.⁸²⁹ Where aggravating factors predominate, adjudicators should consider suspending the respondent for six months to two years or barring him.⁸³⁰

The considerations specific to this Guideline are:

- Whether the deficiencies allowed violative conduct to occur or to escape detection.
- Whether the respondent failed to timely correct or address deficiencies once identified, failed to respond reasonably to prior warnings from FINRA or another regulator, or failed to respond reasonably to other “red flag” warnings.

⁸²⁶ *Id.*

⁸²⁷ *Id.* at 125.

⁸²⁸ *Id.*

⁸²⁹ *Id.*

⁸³⁰ *Id.*

- The number and type of customers, investors, or market participants affected by the deficiencies.
- The number and dollar value of the transactions not adequately supervised as a result of the deficiencies.
- The nature, extent, size, character, and complexity of the activities or functions not adequately supervised as a result of the deficiencies.
- The extent to which the deficiencies affected market integrity, market transparency, the accuracy of regulatory reports, or the dissemination of trade or other regulatory information.
- The quality of controls and procedures available to the respondent and the degree to which the respondent implemented them.⁸³¹

Because proper supervision serves such an important role in protecting investors, egregious violations of supervisory rules often warrant the severest sanctions.⁸³²

The Hearing Panel finds that aggravating factors predominate as to Respondents' failure to supervise their low-priced securities business line and that their violation of supervisory rules was egregious. The deficiencies in Lek Securities' supervisory system allowed potentially violative conduct to occur. Respondents failed to respond reasonably to red flag warnings. The number of investors and market participants affected by the deficiencies was large. The dollar value of the transactions not properly supervised ran into millions of dollars. Respondent's deficiencies enabled the sale of worthless securities to the public and thus affected market integrity. Based on the foregoing, for Lek Securities' and Lek's failure to supervise the firm's low-priced securities business line in violation of FINRA Rules 3110 and 2010, the Hearing Panel fines Lek Securities \$400,000 and expels the firm from FINRA membership and bars Lek from associating in any capacity with any FINRA member firm.

G. Failure to Retain Records Relating to Unapproved Communication Methods, in Violation of Section 17 of the Securities Exchange Act of 1934, SEC Rule 17a-4, and FINRA Rules 4511 and 2010 (Sixth Cause of Action)

The Sanction Guideline for Recordkeeping Violations by a small firm recommends a fine of \$5,000 to \$16,000.⁸³³ Where aggravating factors predominate, adjudicators should consider a fine of \$10,000 to \$155,000.⁸³⁴ When significant aggravating factors predominate, adjudicators

⁸³¹ *Id.*

⁸³² *Dep't of Enforcement v. DreamFunded Marketplace, LLC*, No. 2017053428201, 2021 FINRA Discip. LEXIS 24, at *164 (NAC Sept. 27, 2021), *appeal docketed*, No. 3-20639 (SEC Oct. 27, 2021).

⁸³³ Guidelines at 28.

⁸³⁴ *Id.*

should consider a fine higher than \$155,000.⁸³⁵ As for a suspension, expulsion, or other sanction, where aggravating factors predominate, adjudicators should consider suspending the firm in the relevant business lines or activities for a period of 10 business days to two years, or expelling the firm.⁸³⁶

The considerations specific to this Guideline are:

- The nature and materiality of inaccurate or missing information.
- The type and number of firm records at issue.
- Whether inaccurate or missing information was entered or omitted intentionally, recklessly, or negligently.
- Whether the violations occurred over an extended period of time or involved a pattern or patterns of misconduct.
- Whether the violations allowed other misconduct to occur or to escape detection.⁸³⁷

The Hearing Panel finds that aggravating factors predominate in this case. The nature and materiality of the missing information—electronic communications pertaining to Lek Securities’ business as such—was significant because such information is needed for effective supervision and monitoring of the firm’s business. It is disturbing that Lek and most of Lek Securities’ senior management used unapproved methods of communication, especially when such communications concerned low-priced securities. Based on the foregoing, for Lek Securities’ failure to retain records relating to unapproved communication methods in violation of Section 17 of the Exchange Act, Exchange Act Rule 17a-4, and FINRA Rules 4511 and 2010, the Hearing Panel fines Lek Securities \$75,000 and suspends the firm from its low-priced securities business line for one year. But in light of the expulsions imposed for other causes of action, we decline to impose this suspension.

V. Order

The Hearing Panel orders that, for violating FINRA Rule 2010 by failing to comply with the Order Accepting Offer of Settlement by contravening the business line suspension as alleged in the first cause of action, Respondent Lek Securities Corporation is fined \$155,000 and expelled from membership in FINRA and Respondent Charles Frederik Lek is barred from associating in any capacity with any FINRA member firm.

⁸³⁵ *Id.*

⁸³⁶ *Id.*

⁸³⁷ *Id.*

For failure to implement all the recommendations in the Independent Consultant's Initial Report in violation of FINRA Rule 2010 as alleged in the second cause of action, Lek Securities is fined \$100,000 and Lek is fined \$100,000. We would also suspend Lek Securities for one year in its low-priced securities business line and suspend Lek for two years from associating in any capacity with any FINRA member firm but, in light of the expulsions and bars imposed for other causes of action, we decline to impose these suspensions.

For false representations to FINRA in violation of FINRA Rule 2010 as alleged in the third cause of action, Lek Securities is expelled from FINRA membership and Lek is barred from associating in any capacity with any FINRA member firm.

For failure to develop and implement a reasonable AML program in violation of FINRA Rules 3310 and 2010 as alleged in the fourth cause of action, Lek Securities is fined \$400,000 and expelled from FINRA membership and Lek is barred from associating in any capacity with any FINRA member firm.

For failure to supervise Lek Securities' low-priced securities business line in violation of FINRA Rules 3110 and 2010 as alleged in the fifth cause of action, Lek Securities is fined \$400,000 and expelled from FINRA membership and Lek is barred from associating in any capacity with any FINRA member firm.

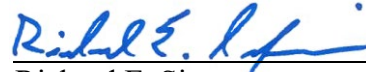
For failure to retain records relating to unapproved communication methods in violation of Section 17 of the Securities Exchange Act of 1934, Rule 17a-4 thereunder, and FINRA Rules 4511 and 2010 as alleged in the sixth cause of action, Lek Securities is fined \$75,000. We would also suspend Lek Securities for one year from its low-priced securities business line but, in light of the expulsions imposed for other causes of action, we decline to impose this suspension.

The total amount of fines for Lek Securities for the first, second, fourth, fifth, and sixth causes of action is \$1,130,000. The total amount of fines for Lek for the second cause of action is \$100,000.

If this Extended Hearing Panel Decision becomes FINRA's final disciplinary action, the expulsions and bars herein shall be effective immediately. Respondents are ordered to pay costs in the amount of \$36,632.87, which includes a \$750 administrative fee and \$35,882.87 for the cost of the hearing transcript. The fines and costs shall be due on a date set by FINRA, but not

sooner than 30 days after this Decision becomes FINRA's final disciplinary action in this proceeding.⁸³⁸

SO ORDERED.



Richard E. Simpson

Hearing Officer

For the Extended Hearing Panel

Copies to:

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⁸³⁸ The Hearing Panel has considered and rejects without discussion all other arguments of the parties.