FINANCIAL INDUSTRY REGULATORY AUTHORITY
OFFICE OF HEARING OFFICERS

Department of Enforcement, Complainant, v. Hallmark Investments, Inc. (CRD No. 135003), Steven G. Dash (CRD No. 2438498), Stephen P. Zipkin (CRD No. 2567513), and William H. Coons (CRD No. 2049465) Respondents.	Disciplinary Proceeding No. 2014039352302 Hearing Officer—RES **ORDER ACCEPTING OFFER OF SETTLEMENT** Date: August 14, 2017

INTRODUCTION

Disciplinary Proceeding No. 2014039352302 was filed on December 20, 2016, by the Department of Enforcement of the Financial Industry Regulatory Authority ("FINRA") ("Complainant"). Respondents Hallmark Investments, Inc. ("Hallmark"), Steven G. Dash, and Stephen P. Zipkin submitted an Offer of Settlement ("Offer") to Complainant dated August 9, 2017. Pursuant to FINRA Rule 9270(e), the Complainant and the National Adjudicatory Council ("NAC"), a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs ("ODA") have accepted the uncontested Offer. Accordingly, this Order now is issued pursuant to FINRA

Rule 9270(e)(3). The findings, conclusions and sanctions set forth in this Order are those stated in the Offer as accepted by the Complainant and approved by the NAC.

Under the terms of the Offer, Respondents Hallmark, Dash and Zipkin have consented, without admitting or denying the allegations of the Complaint, as amended by the Offer of Settlement, and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of FINRA, or to which FINRA is a party, to the entry of findings and violations consistent with the allegations of the Complaint, as amended by the Offer of Settlement, and to the imposition of the sanctions set forth below, and fully understand that this Order will become part of each Respondent's permanent disciplinary record and may be considered in any future actions brought by FINRA.

BACKGROUND

Hallmark

Hallmark first became registered as a broker-dealer with FINRA in 2005. During the period from March 1, 2014 to March 31, 2015 (the "Relevant Period"), Hallmark employed approximately six registered representatives, and was headquartered in New York City.

The firm's prior disciplinary history includes a January 2013 Letter of Acceptance, Waiver and Consent ("AWC"), in which Hallmark consented to findings that, among other things, the Firm conducted a securities business without sufficient net capital in violation of Exchange Act Rule 15c3-1 and FINRA Rule 2010.

After the Complaint was filed, Hallmark was suspended from FINRA membership on March 24, 2017 due to the Firm's non-compliance with FINRA Rule 8210. Then, on May 11, 2017, Hallmark filed a Form BDW seeking to withdraw its FINRA membership. On June 6, 2017, FINRA expelled Hallmark as a FINRA member pursuant to FINRA Rule 9552.

Pursuant to Article IV, Section 6 of FINRA's By-Laws, FINRA still possesses jurisdiction over Hallmark.

Steven Dash

In November 1994, Steven Dash first became registered as a General Securities Representative. In 2005, he founded Hallmark and served as the Firm's chief executive officer until 2017. Until Hallmark's suspension and expulsion in 2017, Dash was registered with FINRA through Hallmark as a General Securities Representative, a General Securities Principal, and an Operations Professional.

In January 2013, Dash executed a Consent Agreement with the Indiana Securities Division that alleged that Dash made an untrue statement of material fact to a Firm customer.

Dash is not currently associated with a member firm. However, pursuant to Article V, Section 4 of FINRA's By-Laws, FINRA retains jurisdiction over him.

Stephen Zipkin

In September 1997, Stephen Zipkin first became registered as a General Securities Representative. Zipkin joined Hallmark in October 2005 and served as the Firm's President until FINRA suspended and expelled Hallmark in 2017.

In January 2013, Zipkin executed a Consent Agreement with the Indiana Securities Division that alleged, among other things, that Zipkin made false statements to the Indiana Securities Division staff.

Zipkin is not currently associated with a member firm. However, pursuant to Article V, Section 4 of FINRA's By-Laws, FINRA retains jurisdiction over him.

FINDINGS AND CONCLUSIONS

It has been determined that the Offer be accepted and that findings be made as follows:[1]

SUMMARY

1. In November 2014, Hallmark Investments, Inc. ("Hallmark" or the "Firm"), Steven G. Dash, and Stephen P. Zipkin sold 39,600 unregistered shares of Avalanche International Corp. (AVLP), which the Firm had acquired pursuant to a consulting agreement, to approximately fourteen Firm customers at fraudulently inflated prices. To effect these sales, Hallmark, acting through Dash and Zipkin, made material misrepresentations and omitted material facts. As a result, Hallmark and Dash willfully violated Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act"). Rule 10b-5 thereunder, and FINRA Rules 2020 and 2010. By the same fraudulent conduct, Zipkin acted in contravention of Sections 17(a)(2) and 17(a)(3) of the Securities Act of 1933 ("Securities Act") and thereby violated FINRA Rule 2010.

2. To conceal its misconduct, Hallmark issued trade confirmations to fourteen customers in connection with the sale of the 39,600 AVLP shares that failed to disclose (a) that Hallmark was acting as a principal for its own account and (b) the difference between the price Hallmark charged its customers for the AVLP shares and the cost to Hallmark to acquire the AVLP shares. As a result, Hallmark willfully violated Section 10(b) of the Exchange Act and SEC Rule 10b-10 thereunder and also violated FINRA Rules 2232 and 2010.

[1] The findings herein are pursuant to the Offer of Settlement submitted by Hallmark, Dash, and Zipkin and are not binding on any other person or entity named as a respondent in this or any other proceeding.

3. Also in connection with the sale of the 39,600 AVLP shares to the fourteen customers, Hallmark, through Dash, charged excessive mark-ups. As a result, Hallmark and Dash violated FINRA Rules 2121 and 2010.

4. Between March 2014 and July 2014, Hallmark sold approximately 195,000 shares of Microphase Corporation ("Microphase") to customers of the Firm. At the time of these sales, the Microphase shares were not registered with the Securities and Exchange Commission ("SEC"), nor were the sales exempt from registration. As a result, Hallmark acted in contravention of Section 5 of the Securities Act ("Section 5"), and thus violated FINRA Rule 2010. Zipkin sold approximately 67,500 unregistered Microphase shares to three customers of the Firm. As a result, Zipkin, as well as Hallmark, acted in contravention of Section 5, and thus violated FINRA Rule 2010.

5. During the "Relevant Period, Hallmark failed to establish, maintain, and enforce a supervisory system, including written supervisory procedures, reasonably designed to achieve compliance with Section 5. As a result, Hallmark violated NASD Rule 3010 and FINRA Rules 3110 and 2010.

6. On at least eight occasions during the Relevant Period, Hallmark conducted a securities business while failing to maintain its required minimum net capital. As a result, Hallmark willfully violated Section 15(c) of the Exchange Act and Rule 15c3-1 thereunder, and violated FINRA Rules 4110 and 2010.

7. Hallmark and Dash each failed to timely and completely respond to FINRA Staff's requests for information pursuant to FINRA Rule 8210. As a result, Hallmark and Dash violated FINRA Rules 8210 and 2010.

FACTS

Hallmark, Dash and Zipkin Sold AVLP Shares to Hallmark Customers at Fraudulently Inflated Prices

8. Avalanche was incorporated in April 2011. At the time, Avalanche was in the business of distributing glass tiles. Later, Avalanche changed its business model and became the holding company for a manufacturer of flavored liquids for use in electronic cigarettes. More recently, Avalanche announced its intention to purchase a company that makes guitars.

9. On or about September 9, 2014, Hallmark received 40,000 AVLP shares in exchange for providing Avalanche with unspecified "consulting services."

10. According to an "Assignment & Assumption of Consulting Agreement" signed by Dash on behalf of Hallmark, the cost basis for the 40,000 AVLP shares acquired by Hallmark was $500.

11. In September 2014, the Firm attempted to deposit the 40,000 AVLP shares with its clearing firm, COR Clearing LLC. COR, however, rejected the deposit based on several "red flags" associated with Hallmark's receipt of the AVLP shares.

12. In response, on or about October 16, 2014, Dash opened an account in Hallmark's name at Scottrade, Inc. for which he was the sole signatory. On October 17, 2014, Dash deposited the 40,000 AVLP shares into the Firm's newly-opened Scottrade account.

13. On November 21, 2014, at Dash's direction, Hallmark used pre-arranged trading to sell 39,600 of the 40,000 AVLP shares held in Hallmark's Scottrade account back to Hallmark.

14. Specifically, on November 20, 2014, Dash placed a "good 'til cancelled" sell order to sell 39,600 of the 40,000 AVLP shares held at Scottrade at a price of approximately $3.00 per share.

15. The following day, November 21, 2014, Zipkin placed a limit order on behalf of Hallmark to buy the 39,600 shares of AVLP at a price of approximately $3.00 per share.

16. According to Zipkin, Dash directed him to set the price of the 39,600 AVLP shares at $3.00 per share. At the time of sale, AVLP was a thinly-traded security. The market price for AVLP based on bid prices in the open market was approximately $2.05 per share. The closing price for AVLP on November 21, 2014 was $2.36 per share.

17. On the same day, November 21, 2014, Hallmark, Dash and Zipkin sold the 39,600 AVLP shares to fourteen Hallmark customers at a price of approximately $3.00 per share for total proceeds to Hallmark of approximately $118,740.60. The sales are described in detail in Exhibit A to this Complaint.

18. The 39,600 shares were transferred from Hallmark's account at Scottrade to an account at COR, where they were then allocated among the fourteen Firm customers.

19. Hallmark charged the fourteen Hallmark customers approximately $2,885 in commissions in connection with the AVLP sales. Each customer also paid a postage and handling fee of $30.

20. The difference between Hallmark's "cost basis" in acquiring the shares, $500, and the total sales proceeds (plus "commissions and fees") it received from the sales, $122,045.60, represents a mark-up to the fourteen customers of more than 20,000 percent.

21. In November and December 2014, around the same time period as the sale of the 39,600 AVLP shares to the fourteen Hallmark customers at approximately $3.00 per share, Hallmark, Dash and Zipkin sold a separate tranche of AVLP shares belonging to Hallmark to a separate group of Hallmark customers at prices ranging from $1.85 per share to $2.50 per share. Contemporaneously, Hallmark sold shares of Avalanche through a private placement to other Firm customers at prices that ranged from 80 cents per share to $1.25 per share.[2]

22. Hallmark issued trade confirmations to the fourteen customers reflecting their purchases on November 21, 2014 of the 39,600 AVLP shares. The trade confirmations failed to disclose that Hallmark had acted in a principal capacity with respect to the sales, and the trade confirmations failed to disclose the substantial mark-ups that the Firm charged in connection with the sales.

23. In addition, all fourteen of the trade confirmations falsely identified the transactions on November 21, 2014 as "unsolicited," when, in fact, Dash and Zipkin solicited all fourteen trades.

24. Also, Hallmark's written supervisory procedures ("WSPs") required the Firm to add a "disclosure on the customer's confirmation" indicating when a representative of the Firm was "on the other side of the trade from the customer." Nevertheless, Hallmark, Dash and Zipkin never disclosed to the fourteen customers that the AVLP shares Dash and Zipkin recommended to them were Hallmark's own shares.

25. Hallmark, Dash and Zipkin never disclosed to the fourteen customers the extraordinary mark-up they charged on the AVLP sales.

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[2] As of November 2016, AVLP was trading at approximately 23 cents per share.

26. Hallmark, Dash and Zipkin never disclosed to the fourteen customers that Hallmark sold AVLP shares to other customers during the same time period for prices as low as 80 cents per share.

Hallmark and Zipkin Sold Unregistered Microphase Shares to Hallmark Customers

27. During the Relevant Period, Microphase was a Connecticut corporation that purportedly designed and manufactured electronics for commercial and defense applications.

28. On March 31, 2014, Hallmark received 225,000 restricted shares of Microphase stock from Microphase in exchange for providing unspecified "consulting services."

29. Between March 2014 and July 8, 2014, Hallmark, through Zipkin and another broker, sold approximately 195,000 of the restricted Microphase shares to seven Firm customers generating total proceeds of approximately $307,250.

30. At the time of these sales, the 195,000 Microphase shares were not registered with the SEC, nor were the sales exempt from registration.

31. Zipkin sold approximately 67,500 of the 195,000 restricted Microphase shares to three customers of the Firm.

Dash Attempted to Conceal the Sales of Unregistered Microphase Shares

32. Dash took several steps to conceal the sales of unregistered Microphase shares. First, for at least three of the customers, Dash directed the customers who agreed to purchase Microphase shares to send their payment checks to Hallmark Investments Holding Corporation ("Hallmark Holdings"), an unregistered entity and partial owner of Hallmark, rather than to the broker dealer. The transactions, therefore, were not included on the books and records of the broker dealer.

33. Second, Dash created "promissory notes," which he caused to be sent to the customers, that gave the false impression that the checks the customers had sent for their Microphase shares were actually intended to be "loans" made by the customers to Hallmark Holdings, rather than sales of stock that were not freely tradeable.

34. Third, Dash did not issue the shares to the customers when the payment checks were received, but rather, held the shares at the Firm for approximately six to nine months, until in or about December 2014. Some customers did not receive their Microphase shares until March 2015.

Hallmark Failed to Establish and Maintain an Adequate Supervisory System for the Sale of Unregistered Shares

35. Hallmark's WSPs contained a section regarding "Sale Of Control Or Restricted Stock." That section defined restricted securities as securities that are:

- acquired directly or indirectly from the issuer or from an affiliate of the issuer in a transaction or series of transactions not involving a public offering.
- acquired from the issuer and are subject to the resale limitations of various rules including Regulation D, Rule 144A, Regulation CE and other rules and regulations providing for resale of unregistered securities [Rule 144(a)(3)].

36. The WSPs required the designated supervisor to:

- Determine the seller's status (affiliate or non-affiliate);
- Determine eligibility for selling the amount and timing of sale; and
- Assist the customer in preparation of required forms.

37. The WSPs contained no explanation of how to determine whether a seller was an affiliate or non-affiliate, no guidance regarding how to conduct a reasonable inquiry into whether the sales complied with the registration requirements of Section 5 or the exemptions therefrom, and no description of the "required forms."

38. In fact, the "designated supervisor" identified in the Firm's WSPs testified that he had no role in ensuring that securities sold through Hallmark were registered or otherwise free to trade.

39. Hallmark delivered the Microphase shares to its customers without making any inquiry into whether the sales qualified for an exemption. Indeed, when the Microphase shares were delivered to Firm customers, from December 2014 to March 2015, the shares still contained a restrictive legend.

Hallmark Conducted a Securities Business While Net Capital Deficient

40. Exchange Act Rule 15c3-1 requires each broker-dealer to maintain, at all times, a certain amount of net capital. The Rule sets forth various amounts of required net capital depending on the type of securities business conducted by a broker-dealer.

41. Pursuant to the Firm's membership agreement, Hallmark operated under Rule 15c3-3(k)(2)(ii), an exemption that allows a broker-dealer to maintain only $5,000 in net capital—so long as it clears all transactions on a fully-disclosed basis through its clearing firm and does not hold funds or securities for customers.

42. From March 17, 2014 through July 8, 2014, Hallmark sold the 195,000 Microphase shares described above by entering into share purchase agreements and/or accepting payment from customers. However, Hallmark did not begin to transfer any of these shares to the purchasing customers until December 19, 2014, and did not complete the transfer of all Microphase shares until at least March 31, 2015.

43. Because Hallmark held Microphase shares for customers during this period, the Firm did not qualify for the Rule 15c3-3(k)(2)(ii) exemption. Instead, the Firm was required to

maintain $250,000 minimum net capital. Hallmark failed to do so and, as a result, failed to maintain the required minimum net capital on certain dates throughout the Relevant Period, as described on Exhibit C hereto.

44. Hallmark conducted a securities business while net capital deficient on at least each of the days listed in Exhibit C.

45. Hallmark's net capital deficiencies on those dates ranged between $202,349 and $240,966.

Hallmark Failed to Timely Respond to Rule 8210 Requests for Documents and Information

46. On April 16, 2015, FINRA staff issued an 8210 request to Hallmark seeking, among other things, documents and information related to the Firm's sale of Microphase shares (the "First Hallmark 8210 Request"). The First Hallmark 8210 Request requested that Hallmark provide a response by no later than May 1, 2015.

47. Hallmark acknowledged receipt of the First Hallmark 8210 Request.

48. Hallmark failed to provide any documents or information in response to the First Hallmark 8210 Request by May 1, 2015.

49. On May 1, 2015, FINRA staff issued a second 8210 request to Hallmark seeking the same documents and information that were previously requested in the First Hallmark 8210 Request (the "Second Hallmark 8210 Request"). The Second Hallmark 8210 Request requested that Hallmark provide a response by no later than May 8, 2015.

50. Hallmark acknowledged receipt of the Second Hallmark 8210 Request.

51. Hallmark failed to provide any documents or information in response to the Second Hallmark 8210 Request by May 8, 2015.

Dash Failed to Timely Respond to Rule 8210 Requests for Documents and Information

52. On April 22, 2015, FINRA staff issued an 8210 request to Dash seeking, among other things, documents and information related to Dash's sale of securities products (the "First Dash 8210 Request"). The First Dash 8210 Request requested that Dash provide a response by no later than May 6, 2015.

53. FINRA Staff served the First Dash 8210 Request on Dash by hand delivery at a meeting with Dash on April 22, 2015.

54. At that April 22, 2015 meeting, Dash told FINRA staff that he would not comply with the First Dash 8210 Request or the First Hallmark 8210 Request.

55. Dash failed to provide any documents or information in response to the First Dash 8210 Request by May 6, 2015.

56. On May 7, 2015, FINRA staff issued a second 8210 request to Dash seeking the same documents and information that were previously requested in the First Dash 8210 Request (the "Second Dash 8210 Request"). The Second Dash 8210 Request requested that Dash provide a response by no later than May 14, 2015.

57. Dash received the Second Dash 8210 Request on or about May 7, 2015.

58. Dash failed to provide any documents or information in response to the Second Dash 8210 Request by May 14, 2015.

59. On June 30, 2015, Hallmark and Dash provided partial, but not complete, responses to the First and Second Hallmark 8210 Requests and the First and Second Dash 8210 Requests.

60. On August 18, 2015, Hallmark and Dash provided additional documents in response to the First and Second Hallmark 8210 Requests and the First and Second Dash 8210 Requests. This constituted, at best, a partial response to the Requests, over three months after the responses were due, and only after FINRA brought a proceeding pursuant to FINRA Rule 9552 to compel the production of the documents.

Hallmark Again Failed to Timely Respond to Rule 8210 Requests for Documents and Information

61. On January 14, 2016, FINRA staff issued an 8210 request to Hallmark seeking, among other things, documents and information related to the Firm's sale of Avalanche shares (the "Third Hallmark 8210 Request"). The Third Hallmark 8210 Request requested that Hallmark provide a response by no later than January 22, 2016.

62. Hallmark acknowledged receipt of the Third Hallmark 8210 Request and requested an extension to respond until January 29, 2016, which FINRA staff granted.

63. Hallmark failed to provide any documents or information in response to the Third Hallmark 8210 Request by January 29, 2016.

64. On February 2, 2016, FINRA staff issued a second 8210 request to Hallmark seeking the same documents and information that were previously requested in the Third Hallmark 8210 Request (the "Fourth Hallmark 8210 Request"). The Fourth Hallmark 8210 Request requested that Hallmark provide a response by no later than February 9, 2016.

65. Hallmark acknowledged receipt of the Fourth Hallmark 8210 Request.

66. Hallmark failed to provide any documents or information in response to the Fourth Hallmark 8210 Request by February 9, 2016.

67. Hallmark provided partial responses to the Fourth Hallmark 8210 Request on February 10, 2016 and February 26, 2016.

68. On February 26, 2016, FINRA staff requested that Hallmark provide complete responses to the Fourth Hallmark 8210 Request no later than March 1, 2016.

69. Hallmark failed to provide complete responses to the Fourth Hallmark 8210 Request by March 1, 2016. Instead, on March 1, 2016, Dash wrote to FINRA staff that he "expect[ed] to have a more substantial document response" within one week.

70. Since Dash's representation that "a more substantial document response" would be forthcoming, Hallmark has failed to produce any additional documents or information in response to the Fourth Hallmark 8210 Request, and Hallmark's response remains incomplete.

FIRST CAUSE OF ACTION

(Securities Fraud in Violation of Section 10(b) of the Exchange Act, SEC Rule 10b-5, and FINRA Rules 2020 and 2010)
(Hallmark and Dash)

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

72. Section 10(b) of the Exchange Act prohibits "any person, directly or indirectly, by the use of any means or instrumentality of interstate commerce or of the mails, or of any facility of any national security exchange . . . to use or employ, in connection with the purchase or sale of any security . . . any manipulative or deceptive device or contrivance."

73. Rule 10b-5, promulgated under the Exchange Act, prohibits any person, "directly or indirectly, by the use of any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, (a) to employ any device, scheme or

artifice to defraud, (b) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, or (c) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person, in connection with the purchase or sale of any security."

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

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

76. The 39,600 Avalanche shares sold to Hallmark customers, as described above, are securities.

77. As more fully described above, in connection with the sale of the 39,600 shares of Avalanche to Hallmark customers, by the means and instrumentalities of interstate commerce (including telephone and email), Hallmark and Dash willfully or recklessly engaged in manipulative or deceptive devices or contrivances in connection with the purchase or sale of securities, and effected transactions in, or induced the purchase or sale of, securities by means of manipulative, deceptive or other fraudulent devices or contrivances, by manipulating the price of the shares sold to fourteen Firm customers. Hallmark used a pre-arranged trading strategy to sell 39,600 shares of Avalanche stock that it held in its Scottrade account at an inflated price.

78. Also as described above, in connection with the sale of the 39,600 shares of Avalanche to Hallmark customers, by the means and instrumentalities of interstate commerce (including telephone and email), Hallmark and Dash willfully or recklessly made numerous misrepresentations of material facts and failed to disclose the following material facts to the fourteen Firm customers:

a. that the Avalanche shares the customers purchased belonged to Hallmark;

b. that the Avalanche shares could be purchased for substantially less on the open market, or through the Avalanche private placement;

c. that Hallmark had acquired all of the shares directly from Avalanche for less than $500;

d. that, in contrast to Hallmark's representation that it had received $2,885 in commissions in connection with the sales, Hallmark's mark-up on the Avalanche shares was actually over $120,000.

79. As a result of the foregoing, Hallmark and Dash willfully violated Section 10(b) of the Exchange Act, SEC Rule 10b-5 thereunder, and violated FINRA Rules 2020 and 2010.

SECOND CAUSE OF ACTION

(Misrepresentations and Omissions in Contravention of Section 17(a) of the Securities Act of 1933 in Violation of FINRA Rule 2010)
(Zipkin)

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

81. Section 17(a)(2) of the Securities Act prohibits, in the offer or sale of any securities using interstate commerce, obtaining "money or property by means of any untrue

statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading."

82. Section 17(a)(3) of the Securities Act prohibits, in the offer or sale of any securities using interstate commerce, engaging "in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser."

83. During the course of the conduct described more fully above, Zipkin, in connection with the offer or sale of securities, by use of the means or instruments of transportation or communication in interstate commerce or by use of the mails: (a) engaged in a scheme to defraud investors by using a pre-arranged trading strategy to manipulate the price of the Avalanche shares that it sold to fourteen Firm customers; and/or (b) made material misrepresentations and failed to disclose material information in connection with the Firm's ownership and pricing of the Avalanche shares, all to obtain an undisclosed mark-up.

84. As a result of the foregoing conduct in connection with the offer or sale of securities, Zipkin acted in contravention of Section 17(a) of the Securities Act, thereby violating FINRA Rule 2010, and independently violated FINRA Rule 2010.

THIRD CAUSE OF ACTION

(Failure to Disclose Required Information on Customer Confirmations in Violation of Section 10(b) of the Exchange Act, SEC Rule 10b-10, and FINRA Rules 2232 and 2010)
(Hallmark)

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

86. SEC Rule 10b-10 requires brokers and dealers to provide customers with a written notification at the time of each securities transaction that includes certain information, including

whether the firm is acting as a principal for its own account, and, if so, the difference between the price the firm charged to the customers and the cost to the firm to acquire the securities.

87. FINRA Rule 2232 requires member firms to provide customers with a written confirmation of any transaction that is in conformity with the requirements of Rule 10b-10.

88. As more fully described above, in connection with Hallmark's sale of 39,600 Avalanche shares to Firm customers, Hallmark failed to provide customers with a written confirmation that accurately disclosed (1) its principal role in the sales, and (2) the difference between the price the Firm charged to the customers and the cost to the Firm to acquire the Avalanche shares.

89. As a result of the foregoing, Hallmark willfully violated Section 10(b) of the Exchange Act and SEC Rule 10b-10, and violated FINRA Rules 2232 and 2010.

FOURTH CAUSE OF ACTION

(Excessive Mark-Ups in Violation of FINRA Rules 2121 and 2010)
(Hallmark and Dash)

90. The Department realleges and incorporates by reference paragraphs 1 through 89 above.

91. FINRA Rule 2121 states that "if a member . . . sells for his own account to his customer, he shall . . . sell at a price which is fair, taking into consideration all relevant circumstances, including market conditions with respect to such security at the time of the transaction, the expense involved, and the fact that he is entitled to a profit . . . ."

92. As more fully described above, Hallmark and Dash sold the 39,600 Avalanche shares to Firm customers at prices that were not fair and reasonable. Hallmark received a total of $122,045.60 from the transactions—representing a mark-up of more than 20,000 percent.

93. As a result of the foregoing, Hallmark and Dash violated FINRA Rules 2121 and 2010.

FIFTH CAUSE OF ACTION

(Sale of Unregistered Securities in Violation of FINRA Rule 2010)
(Hallmark and Zipkin)

94. The Department realleges and incorporates by reference paragraphs 1 through 93 above.

95. Section 5 of the Securities Act prohibits sales of or offers to sell securities that are not registered with the SEC, unless the sales are subject to an exemption.

96. As more fully described above, between March 2014 and July 2014, through use of the means or instruments of transportation or communication in interstate commerce and the mails, Hallmark sold or offered to sell approximately 195,000 shares of Microphase to customers of the Firm.

97. Zipkin sold approximately 67,500 of these 195,000 Microphase shares to three customers of the Firm.

98. At the time of these sales, or offers to sell, no registration statement had been filed with the SEC for the foregoing Microphase shares, and the shares were sold in transactions that were not exempt from registration with the SEC.

99. As a result of the foregoing, Hallmark and Zipkin acted in contravention of Section 5, and thus violated FINRA Rule 2010.

SIXTH CAUSE OF ACTION

(Failure to Establish, Maintain, and Enforce a Supervisory System, including Written Supervisory Procedures, Reasonably Designed to Achieve Compliance with Section 5 in violation of NASD Rule 3010 and FINRA Rules 3110 and 2010)
(Hallmark)

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

101. During the Relevant Period, Hallmark failed to establish, maintain, and enforce a supervisory system, including written supervisory procedures, reasonably designed to achieve compliance with Section 5.

102. NASD Rule 3010(a) (for the period before December 1, 2014) and FINRA Rule 3110 (a) (for the period after December 1, 2014) require member firms to adopt a comprehensive system of supervision that is "reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable [FINRA and NASD] Rules."

103. NASD Rule 3010(b) (for the period before December 1, 2014) and FINRA Rule 3110 (b) (for the period after December 1, 2014) require member firms to "establish, maintain and enforce written procedures to supervise the types of business in which it engages." Accordingly, a broker-dealer's written procedures must be tailored to the specific nature of its business activities.

104. As set forth above, Hallmark's supervisory system was inadequate to reasonably ensure that shares of stock sold through the Firm were sold pursuant to an effective registration statement or a valid exemption therefrom. Hallmark's WSPs contained no meaningful guidance regarding conducting an inquiry to determine whether shares were eligible for trading.

105. As a result of the foregoing, Hallmark violated NASD Rule 3010 and FINRA Rules 3110 and 2010.

SEVENTH CAUSE OF ACTION

(Failure to Maintain Minimum Net Capital in Violation of Exchange Act Rule 15c3-1 and FINRA Rules 4110 and 2010) (Hallmark)

106. The Department realleges and incorporates by reference paragraphs 1 through 105 above.

107. Exchange Act Rule 15c3-1 requires each broker-dealer to maintain, at all times, a certain amount of net capital. The rule sets forth various categories and amounts of required net capital depending on the type of securities business conducted by a broker-dealer.

108. FINRA Rule 4110(b)(1) requires member firms to suspend all business operations during any period in which it is not in compliance with applicable net capital requirements set forth in Rule 15c3-1.

109. At all relevant times, Hallmark operated under Rule 15c3-3(k)(2)(ii), an exemption that allows a broker-dealer to maintain only $5,000 minimum in net capital—so long as it clears all transactions on a fully disclosed basis through its clearing firm and does not hold funds or securities for customers.

110. As more fully described above, because Hallmark held Microphase shares for customers from March 17, 2014 through March 31, 2015, the Firm did not qualify for the Rule 15c3-3(k)(2)(ii) exemption. Instead, the Firm was required to maintain $250,000 minimum net capital. Hallmark failed to do so.

111. As a result, as set forth on Attachment C hereto, Hallmark failed to maintain the required minimum net capital on at least eight separate days, corresponding to its end-of-month

FOCUS filings with FINRA. Hallmark's net capital deficiencies ranged between $202,349 and $240,966.

112. Hallmark conducted a securities business while net capital deficient on each of the days listed in Exhibit C.

113. As a result of the foregoing, Hallmark willfully violated Section 15(c) of the Exchange Act and Rule 15c3-1 thereunder, and violated FINRA Rules 4110 and 2010.

EIGHTH CAUSE OF ACTION

(Failure to Respond to Rule 8210 Requests in a Timely and Complete Manner in Violation of FINRA Rules 8210 and 2010)
(Hallmark and Dash)

114. The Department realleges and incorporates by reference paragraphs 1 through 113 above.

115. FINRA Rule 8210 authorizes FINRA to obtain documents and information from member firms and individual registered representatives during the course of an examination or investigation, and states that "[n]o member or person shall fail to provide information or testimony or to permit an inspection and copying of books, records, or accounts pursuant to this Rule."

116. As more fully set forth above, on several occasions Hallmark and Dash hindered FINRA's investigation by failing to respond to Rule 8210 information requests timely, completely, or at all.

117. As a result of the foregoing, Hallmark and Dash violated FINRA Rules 8210 and 2010.

SANCTIONS

It is ordered that Respondent Hallmark be:

- Expelled from FINRA membership.

It is ordered that Respondent Dash be:

- Barred from association with any FINRA member firm in any capacity.

It is ordered that Respondent Zipkin be:

- Suspended for two years from associating in any capacity with any FINRA member firm; and
- Required to make payment of restitution in the amount of $18,288.00.

Respondent Zipkin has submitted a sworn financial statement and demonstrated a limited ability to pay. In light of the financial status of Respondent Zipkin, the monetary sanctions have been limited to restitution in the amount of $18,288.00 with no fine imposed. Zipkin's limited ability to pay has been considered in connection with the monetary sanction imposed in this matter.

Zipkin is ordered to pay restitution to the customers listed on Attachment A hereto in the total amount of $18,288.00, plus interest at the rate set forth in Section 6621(a)(2) of the Internal Revenue Code, 26 U.S.C. 6621(a)(2), with interest calculated from November 21, 2014, until the date of payment. The restitution amounts ordered pursuant to this disciplinary action are due and payable immediately upon Zipkin's re-association with a member firm, or prior to any application or request for relief from any statutory disqualification resulting from this or any other event or proceeding, whichever is earlier.

The imposition of a restitution order or any other monetary sanction herein, and the timing of such ordered payments, does not preclude customers from pursuing their own actions to obtain restitution or other remedies.

If for any reason Zipkin cannot locate any customer identified in Attachment A after reasonable and documented efforts within such period, or such additional period agreed to by FINRA staff, Zipkin shall forward any undistributed restitution and interest to the appropriate escheat, unclaimed property, or abandoned property fund for the state in which that customer is last known to have resided.

The sanctions imposed herein shall be effective on a date set by FINRA staff. A bar or expulsion shall become effective upon approval or acceptance of this Order.

SO ORDERED.

FINRA

Signed on behalf of the
Director of ODA, by delegated authority

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