FINANCIAL INDUSTRY REGULATORY AUTHORITY
OFFICE OF HEARING OFFICERS

Department of Enforcement, Complainant, v. Jonah Engler (CRD No. 4216259), Brett Ian Friedberg (CRD No. 5012184), Jonathan Michael Sheklow (CRD No. 4906207), Joshua William Turney (CRD No. 4510219), and Hector Perez, a/k/a Bruce Johnson (CRD No. 5431109), Respondents.	DISCIPLINARY PROCEEDING No. 2010024522103 Hearing Officer - DS **ORDER ACCEPTING OFFER OF SETTLEMENT** Date: July 1, 2015

INTRODUCTION

Disciplinary Proceeding No. 2010024522103 was filed on June 4, 2014, by the Department of Enforcement of the Financial Industry Regulatory Authority (FINRA) (Complainant). After the commencement of a Hearing on the merits, Respondent Jonah Engler (Respondent), submitted an Offer of Settlement (Offer) to Complainant dated June 19, 2015. Pursuant to FINRA Rule 9270(e), the Complainant, the Extended Hearing Panel, 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 the Extended Hearing Panel, and approved by the NAC.

Under the terms of the Offer, Respondent has 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 understands that this Order will become part of Respondent's permanent disciplinary record and may be considered in any future actions brought by FINRA.

BACKGROUND

1. Respondent first became registered as a General Securities Representative (GSR) through a member firm on July 3, 2000. Respondent was registered through that firm and several other FINRA member and former member firms until March 2009.

2. From February 26, 2009 until October 17, 2013, Respondent was registered as a GSR through HFP.

3. Between October 30, 2013 and April 16, 2015, Respondent was registered through a different member firm.

4. Respondent is not currently registered or associated with a FINRA member firm.

5. Under Article V of FINRA's By-Laws, FINRA possesses jurisdiction over Respondent for purposes of this proceeding because: (a) he was registered with FINRA and associated with a member firm at the time this proceeding was commenced; and (b) the Complaint charges him with misconduct committed while he was registered with FINRA and associated with a member firm.

FINDINGS AND CONCLUSIONS

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

SUMMARY

6. Between December 2009 and February 2011, Respondent and five other individuals fraudulently sold a total of nearly $3 million worth of Senior Secured Zero Coupon Notes (the "Notes" or the "MMM Notes") issued by Metals, Milling and Mining LLC ("MMM") in a private placement offering to 59 customers. Specifically, Respondent misrepresented material facts about the offering, which promised to pay a return of 100 percent in one year by purportedly extracting precious metals from materials left over from mining operations (known as "ore concentrate"). The investors lost all of the money that they invested in the MMM Notes, with the exception of three investors who were repaid with funds from new investors.

7. Respondent recklessly failed to conduct a reasonable investigation of the viability and legitimacy of MMM in the face of numerous red flags that MMM was a fraud.

8. In connection with his sales of MMM Notes, Respondent recklessly misrepresented that: (a) the MMM Notes were collateralized by certain barrels of ore concentrate; and (b) the ore concentrate that supposedly served as the collateral was of sufficient value to secure an investment in the MMM Notes. In fact, there was no collateral for the MMM Notes, because MMM did not own any ore concentrate, despite a misrepresentation in the MMM Notes that ownership of ore concentrate had been transferred to investors. Further, the ore concentrate that was supposed to serve as the collateral was nearly worthless. Respondent, having failed to confirm that the collateral existed and that the supposed collateral had any value,

[1] The findings herein are pursuant to Respondent Jonah Engler's Offer of Settlement and are not binding on any other person or entity named as a respondent in this or any other proceeding.

recklessly misrepresented to prospective purchasers that their investments would be adequately secured by collateral.

9. Respondent recklessly misrepresented material facts regarding the MMM Notes to his customers, in willful violation of Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder and in violation of FINRA Rules 2020 and 2010.

10. Further, Respondent failed to obtain basic information about MMM that was necessary to the due diligence process in order to understand an investment in the company. Without such information, Respondent lacked a reasonable basis to recommend the MMM Notes to investors, in violation of NASD Conduct Rule 2310 and FINRA Rule 2010.

FACTS

The Formation of MMM

11. Respondent's employing firm, HFP, became involved in the MMM transaction, in or about October 2009, after HFP's Managing Partner, VP, was introduced to RG, an individual who held himself out as having expertise in mining and precious metals. RG met with VP and certain HFP investment bankers. Respondent, however, did not meet RG.

12. RG purported to own hundreds of barrels of ore concentrate from which he claimed precious and valuable metals could be extracted through a "plasmafication" process. RG stated, however, that he needed funding in order to undertake this process.

13. To that end, on November 30, 2009, MMM was established as a Delaware limited liability company. RG owned 75 percent and was the "Managing Member" of MMM. MMM Metals Partners LLC ("MMM Partners"), an entity owned by VP, owned 20 percent of MMM. A third entity, TI, owned the remaining five percent.

14. RG gave VP and HFP investment bankers what purported to be laboratory tests known as assays, which are compositional tests of metal or ore to determine its ingredients and

quality. These assays showed that barrels of ore purportedly owned by RG contained quantities of various precious metals. However, as detailed below, these assays were false.

15. MMM was to use the proceeds from the offering to pay third party contractors to employ a "plasmafication" process to extract precious and valuable metals from the ore and/or to build a machine to enable MMM to extract the ore. But as detailed below, HFP concluded, after performing an internal investigation in or about late 2011, that MMM's plans to process ore to extract salable quantities of precious metals were not viable.

16. When MMM was established, RG was the subject of numerous liens and judgments regarding unpaid obligations, including an unsatisfied 2007 federal tax lien in the amount of $57,118.

The Structure of the MMM Notes Offering

17. The debt security for the MMM offering was reflected in two different documents: a Note and an accompanying Repurchase Agreement.

18. Pursuant to the terms of the Note, investors who loaned money to MMM would receive repayment of principal owed upon the Note's maturity in one year from the date of their purchase of the Note. The Notes did not contain any provision for interest payments to investors. The Notes, however, provided that MMM agreed to grant to the Noteholders, "complete and clear title to five (5) barrels or approximately five thousand (5,000) pounds of ore concentrates." Thus, the Notes provided that five barrels of ore would serve as collateral for the planned offering up to $2 million and that the Noteholders were entitled to a pro-rata share of ownership of the collateral. In April 2010, after HFP increased the offering amount from $2 million to $3 million, the Notes provided that eight barrels of ore would serve as collateral for the Notes. The Notes are securities.

19. Pursuant to the terms of the Repurchase Agreements between MMM and the holders of the Notes, MMM agreed to repurchase from the Noteholders the five barrels of ore concentrate for $2 million. The ore was to be repurchased one year from the date of the Repurchase Agreement. Thus, the Notes provided for the return of investors' principal in one year, and MMM's "repurchase" of the collateral provided for the 100 percent profit to investors in the MMM Notes.

20. For example, if an investor invested $25,000 in an MMM Note, at the time of his/her investment, that investor was supposed to receive a pro rata share of ownership with other investors in the barrels of ore designated as collateral. Pursuant to the terms of the Note, the investor was then to receive a return of his/her $25,000 principal investment within one year from the date of the Note. Pursuant to the terms of the Repurchase Agreement, within one year, MMM agreed to repurchase the collateral owned by the investor and the investor would receive an additional $25,000. Thus, the investor was to receive a total of $50,000 for his/her investment in the $25,000 MMM Note.

21. However, there was no basis for the determination that five barrels of leftover mining materials were adequate collateral for the initial $2 million offering (or likewise that eight barrels were adequate collateral for the $3 million offering).

22. In addition, ownership of the barrels of ore was never transferred to investors as provided for in the MMM Notes.

23. There was no private placement memorandum, offering circular or term sheet for the sale of the MMM Notes. Rather, in addition to the Note and Repurchase Agreement, the only other offering documents were a Subscription Agreement and Purchaser Questionnaire

(collectively, the "Transaction Documents"). At least one MMM investor also received a "Business Overview" document that contained a brief summary of MMM and the MMM Notes.

24. The written risk disclosures for prospective investors concerning the MMM Notes offering were contained in a four-paragraph section of the Subscription Agreement titled "Risk Factors." That section, however, provided only a generalized description of MMM and, as discussed below, an incomplete disclosure of the risks that might be associated with investing in the MMM Notes.

25. The Subscription Agreement stated that MMM was a new business organized in November 2009 with no revenues to date. The owners and senior management of MMM were not identified by name and the Subscription Agreement did not contain any information about their background. The Subscription Agreement did not provide any information that might enable a potential investor to evaluate whether the owners and operators of MMM had the necessary background and experience to succeed in the venture of processing ore. These facts are material to a reasonable investor.

26. In particular, the Subscription Agreement did not disclose that RG was the subject of numerous liens and judgments regarding unpaid obligations, including an unsatisfied 2007 federal tax lien in the amount of $57,118. These facts raised questions regarding RG's fitness for the business venture, especially since RG was the primary individual behind MMM upon whose success the entire venture relied.

27. The Subscription Agreement also did not disclose that VP, a principal of HFP, indirectly owned a 20 percent stake in MMM through his ownership of MMM Partners, a Delaware limited liability company that was established on November 30, 2009 (the same date that MMM itself was founded). This fact is material to potential investors in MMM because

VP's ownership stake represented a conflict of interest with HFP's role in selling the MMM Notes as it presented a motivation for VP to put his own interests ahead of HFP's customers.

28. Further, the Subscription Agreement did not disclose that RG intended to take a loan from the offering proceeds. In fact, RG was paid $272,000 from the proceeds. This payment was apparently a loan from MMM to RG as reflected in a December 10, 2009 promissory note. This loan presented an obvious conflict of interest and a red flag where offering proceeds were being used for RG's own purposes rather than furthering MMM's purported business plan.

29. The Subscription Agreement also did not explain how the ore was to be processed, how it was determined that any such process was viable, or how the offering proceeds were to be used. In short, the Subscription Agreement failed to set forth facts upon which a potential investor could evaluate MMM's ability to succeed in the intended venture.

30. None of the other Transaction Documents contained any of the omitted information discussed above. Apart from identifying the name of a third party vendor, the "Business Overview" did not contain any of the omitted information either.

Respondent Failed to Investigate MMM Prior to Recommending MMM Notes to Customers

31. Respondent was first introduced to MMM in or about November 2009, when he attended a meeting with HFP's then-Chief Executive Officer, VP, and an HFP investment banker, TM. VP and TM encouraged Respondent to sell the MMM Notes to his customers.

32. In that meeting and in additional meetings with VP and TM, Respondent and other HFP registered representatives received certain basic information concerning the MMM Notes from VP and TM. Specifically, VP and TM told the Respondent and others that:

a. MMM was raising capital so that it could process certain barrels of "ore concentrate" that MMM claimed to own. The process was known as plasmafication. Plasmafication was allegedly designed to extract salable quantities of precious metals from the ore;

b. the initial capital raise was for $2 million through the MMM Notes (which was later raised to $3 million);

c. the Notes were purportedly "asset backed" by certain barrels of ore concentrate that were to serve as adequate collateral for the Notes; and

d. the Notes were structured so as to provide a 100 percent return to investors in 12 months.

33. VP and TM spoke to Respondent and others about the MMM Notes and provided them with the Transaction Documents. There was no private placement memorandum, no term sheet and no offering circular.

34. Neither VP, TM, nor anyone else at HFP or MMM informed Respondent and the other registered representatives, either orally or in the written offering materials, of numerous basic, material facts about the deal, and the Respondent proceeded with selling the MMM Notes without obtaining this fundamental information from the firm, MMM, or any other source about:

a. how the Firm determined that five (and later eight) barrels of ore concentrate was adequate collateral for the MMM Notes;

b. how MMM's plan to extract precious metals from ore concentrate, through plasmafication or any other means, was technologically viable and potentially profitable;

c. details as to the identity and background of the owners and management of MMM; and

d. details as to how the offering proceeds were to be used.

35. Respondent should have conducted an investigation into the MMM Notes in light of the following red flags that raised substantial questions about the propriety of the MMM Notes offering:

a. the alchemy-like premise of extracting precious metals from ore concentrate is highly suspicious on its face;

b. there was no private placement memo and only limited written disclosures concerning MMM and the risks of the offering;

c. Respondent had obtained only limited verbal information concerning MMM and had not obtained many essential facts about the offering, as detailed above;

d. the investment promised an unusually high rate of return – 100 percent in one year;

e. MMM was a newly formed entity; and

f. the structure of the security as a Senior Secured Zero Coupon Note (*i.e.*, a note paying no interest to the holder) with the promised return provided for by the repurchase of collateral in a separate Repurchase Agreement was unusual.

36. Despite these red flags, Respondent failed to learn essential facts about the MMM Notes and to determine whether MMM was a viable entity and whether the Notes should be offered to any of his customers.

37. Respondent recklessly failed to take steps to understand the purported science and technology behind MMM's plans to process ore and whether such plans were feasible.

Respondent did not have any understanding as to how MMM's proposed method compared with any other methods of processing ore, and Respondent did not obtain facts that would reasonably enable him to reach the conclusion that MMM's plan was potentially profitable.

38. Respondent did not obtain any written information showing that any reputable experts in metallurgy or any other related and applicable fields had ascertained the viability of, and potential profitability from, MMM's undefined business plan to process ore.

39. Respondent did not independently investigate or obtain adequate information as to whether the ore for the MMM project either existed or contained quantities of precious metals that could be extracted. Respondent also did not obtain information about the third parties who were engaged to process the ore for MMM and whether those parties were either reputable or possessed the capability to process the ore.

40. Respondent's efforts to perform independent research about MMM were limited to searching the Internet using several basic terms, such as general terms relating to mining.

41. In the face of the aforementioned red flags surrounding the offering, Respondent recklessly failed to obtain basic information and material facts about the offering prior to recommending and selling the MMM Notes to his customers.

42. Because Respondent recklessly failed to conduct a reasonable investigation into the MMM offering, he did not have a reasonable basis to recommend the Notes to his customers.

43. Despite the failures to conduct a reasonable investigation into MMM, and despite not knowing basic material information about MMM's management, not understanding the company's process for purportedly extracting precious metals from waste ore, and not addressing multiple red flags, Respondent began to recommend the MMM Notes to customers beginning in December 2009.

Respondent's Sales of MMM

44. From December 2009 to February 2011, Respondent and others sold a total of $2.98 million worth of MMM Notes to 59 different investors in 78 separate transactions. As set forth on Exhibit A hereto, Respondent sold or assisted others to sell a total $590,000 of MMM Notes to eleven investors in fourteen transactions.

45. After the sales to customers, in the summer of 2011, RG told HFP's then-Chief Executive, GB, that the assays that he provided to HFP were false and not an actual reflection of the contents of RG's ore. RG also told GB that the ore was virtually worthless. As a result of these facts, and after internal investigation that included meeting with third parties who were contracted to process ore, HFP ultimately concluded that efforts to process ore were not viable. In sum, the offering was a fraud.

Respondent's Misrepresentations about MMM Collateral

46. Respondent represented to his customers that the MMM Notes were collateralized by barrels of ore.

47. However, prior to making these representations, Respondent failed to adequately investigate the existence of the purported collateral.

48. Respondent never obtained documents – and in fact there were no such documents – evidencing either that MMM had obtained ownership of barrels of ore concentrate or that such barrels were transferred to Respondent as provided for in the MMM Notes.

49. Respondent further failed to conduct any investigation, other than relying on the verbal representations of VP and TM, to confirm whether or not ore had any value. Respondent did not obtain any written reports from an independent source confirming that the ore had value.

50. In fact, the ore was virtually worthless and ownership of the ore was never transferred to holders of MMM Notes. Indeed, there is no evidence that MMM ever owned any collateral. As a result, the MMM Notes were not collateralized.

51. The misrepresentation that the Notes were collateralized is material because it suggested to customers that even if MMM was not successful in processing ore, the risks in investing in MMM were mitigated by the purported value of the collateral.

52. As a result, Respondent recklessly made material misrepresentations that: (a) five barrels of ore were adequate to collateralize $2 million in MMM Notes (and later, that eight barrels of ore were adequate to collateralize $3 million in MMM Notes); and (b) that ownership of the ore had been transferred to investors, as provided for in the MMM Notes. These representations were false.

FIRST CAUSE OF ACTION
Misrepresentations of Material Facts
(Willful Violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder and Violations of FINRA Rules 2020 and 2010)

53. Section 10(b) of the Exchange Act and Rule 10b-5 thereunder make it unlawful for any person, by the use of any means or instrumentality of interstate commerce, or of the mails, to, among other things, 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 light of the circumstances under which they were made, not misleading, in connection with the purchase or sale of a security.

54. 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."

55. From December 2009 to February 2011, Respondent violated these rules by recklessly making the following misrepresentations of facts in connection with his sales of securities:

a. the MMM Notes were collateralized by barrels of concentrated ore (when that was not the case); and

b. the alleged collateral was of sufficient value to secure an investment in the MMM Notes (when the alleged collateral was, in fact, nearly worthless).

56. The above misrepresentations were material.

57. In the course of marketing and selling the MMM offering, Respondent made use of means or instrumentalities of interstate commerce and of the mails. Specifically, Respondent made use of, among other things, the telephone, email and fax to contact customers who were located in various states, sent subscription documents to the customers using the mails and caused customers to wire funds to invest in the offering.

58. Respondent acted recklessly in making the misrepresentations to investors in the MMM Notes.

59. By reason of the foregoing, Respondent willfully violated Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder and also violated FINRA Rules 2020 and 2010.

SECOND CAUSE OF ACTION
Reasonable Basis Suitability
(Violations of NASD Conduct Rule 2310 and FINRA Rule 2010)

60. NASD Rule 2310 (which was in effect at all times relevant to this case) required that when a member recommends to a customer the purchase, sale or exchange of any security, a member shall have reasonable grounds for believing that the recommendation is suitable for such

customer upon the basis of the facts disclosed by such customer as to his financial situation and needs. Under NASD Rule 2310, a broker-dealer and its registered representatives must satisfy a "reasonable basis" suitability requirement, pursuant to which they must understand the recommended security or strategy and the risks involved, and determine whether the recommendation is suitable for at least some investors.

61. Respondent did not satisfy his reasonable basis suitability obligations with respect to the MMM Notes. Nonetheless, Respondent recommended the securities to his customers.

62. Respondent lacked a reasonable basis to recommend MMM Notes to his customers in light of: (a) obtaining only limited information about the MMM Notes and his lack of investigation into MMM; and (b) the multiple red flags surrounding the offering, as described above.

63. In addition to the failures by Respondent to investigate and understand the MMM Notes, in light of the red flags surrounding the MMM Notes as described herein, the MMM Notes were simply not a suitable investment for any investor.

64. By reason of the foregoing, Respondent violated NASD Conduct Rule 2310 and FINRA Rule 2010.

Based on these considerations, the sanctions hereby imposed by the acceptance of the Offer are in the public interest, are sufficiently remedial to deter Respondent from any future misconduct, and represent a proper discharge by FINRA, of its regulatory responsibility under the Securities Exchange Act of 1934.

SANCTIONS

It is ordered that Respondent be:

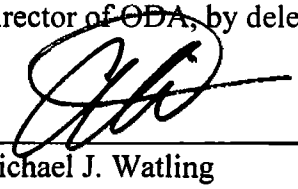
- Barred from associating with any member firm in all capacities.

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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