

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20120315955-01**

TO: Department of Market Regulation
Financial Industry Regulatory Authority (“FINRA”)

RE: Terry L. Haggerty, Respondent
Associated Person
CRD No. 728634

Pursuant to FINRA Rule 9216 of FINRA’s Code of Procedure, I (the “Respondent”) submit this Letter of Acceptance, Waiver and Consent (“AWC”) for the purpose of proposing a settlement of the alleged rule violations described below. This AWC is submitted on the condition that, if accepted, FINRA will not bring any future actions against Respondent alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A.** Respondent hereby accepts and consents, without admitting or denying the findings, 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, prior to a hearing and without an adjudication of any issue of law or fact, to the entry of the following findings by FINRA:

BACKGROUND

Respondent first became registered with a member firm in 1981. At all times during the review period, Respondent was the majority owner, President, Chief Executive Officer (“CEO”), and Chief Compliance Officer (“CCO”) of Penvest Securities, Inc. (“PVST” or the “Firm”), a member of FINRA. At all times during the review period, Respondent was registered with the Firm in various capacities, including as a general securities principal and as a general securities representative.

At all times during the review period, Respondent was also the sole owner, officer, director, and employee of Blue Sky Group, Inc. (“Blue Sky”), which was registered with certain states as an investment adviser. The majority of PVST’s customers were also investment advisory clients of Blue Sky. Pursuant to the terms of their investment advisory contract with Blue Sky, Blue Sky clients gave Blue Sky discretionary trading authority over their accounts at PVST (the “discretionary trading clients”). Respondent, as the President and sole employee of Blue Sky, exercised the discretionary trading authority given by the discretionary trading clients to Blue Sky.

Subsequent to the review period, on June 2, 2014, the Firm filed a Form U-5 Uniform Termination Notice for Securities Industry Registration with FINRA disclosing that Respondent had terminated his employment with the Firm the same day. Respondent remains subject to FINRA's jurisdiction pursuant to Article V, Section 4 of FINRA's By-Laws.

That same day, June 2, 2014, the Firm filed a Form BDW Uniform Request for Broker-Dealer Withdrawal. Effective July 7, 2014, FINRA cancelled the Firm's membership with FINRA for failure to pay outstanding fees.

DISCIPLINARY HISTORY

On February 18, 2016, Respondent was suspended by FINRA for failure to comply with an arbitration award or settlement agreement or to satisfactorily respond to a FINRA request to provide information concerning the status of compliance.

SUMMARY

The staff of the Trading Analysis Group of FINRA's Department of Market Regulation (the "staff") reviewed Respondent's trading activity in Pacific Sands, Inc. ("PFSD"), a penny stock traded in the over-the counter market, during the period from January 1, 2010 through March 2, 2012 (the "Review Period"). As a result of their review, the staff found that Respondent engaged in manipulative trading activity in the shares of PFSD. More specifically, the staff found that, during the Review Period, Respondent effected pre-arranged or matched trades, and marked the open and close, in order to support or raise the price of PFSD in willful violation of Section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act") and Rule 10b-5 thereunder, and FINRA Rules 2020 and 2010.

The staff also found that Respondent failed to establish a supervisory system to supervise the activities of each registered representative and principal that was reasonably designed to achieve compliance with applicable securities laws and regulations. More specifically, Respondent, as the Firm's President, CEO, and CCO, failed to ensure that the trading activity that he conducted on behalf of himself and the Firm's customers was reviewed to detect and prevent potential manipulative trading activity. Respondent also failed to ensure that his email communications were reviewed for compliance with applicable securities laws and regulations. As a result, Respondent violated FINRA Rule 2010 and NASD Rule 3010.

FACTS AND VIOLATIVE CONDUCT

Manipulation of the Market for PFSD

1. Respondent first began buying PFSD in late 2007 or early 2008 for his own

accounts,¹ as well as the accounts of PVST customers, including his discretionary trading clients. During the Review Period, Respondent and his PVST customers accounted for approximately 43 percent of all reported volume in PFSD. PVST customers bought approximately 7.5 million more shares of PFSD than they sold. During the Review Period, Respondent's own accounts were fully invested in PFSD.

2. During the Review Period, Respondent, through the use of his own accounts and those of PVST customers, including his discretionary trading clients, effected pre-arranged or matched trades in PFSD, and marked the open or the close, in order to support or raise the price of the stock. During the Review Period, matched trades executed by Respondent for his own accounts and those of PVST customers accounted for approximately 39 percent of all reported volume in PFSD, and approximately 89 percent of all PVST trading activity in PFSD. Similarly, during the Review Period, Respondent executed 102 transactions in PFSD within the first, or last, twenty minutes of the trading day that set the opening, or closing, price for PFSD at a price that was higher than the last reported independent trade in which PVST was not a party.
3. For example, on February 22, 2010, at 11:14:49, Respondent executed the first trade of the day in PFSD at 3.5 cents per share in a pre-arranged or matched trade between himself and a PVST customer. Between 11:14:50 and 13:03:37, Respondent executed seven additional trades in PFSD, all at prices ranging between 3.5 and 3.6 cents per share. These seven additional trades were executed by Respondent either in the open market for his own account or for the account of a PVST customer, or in matched trades between the Respondent and a PVST customer. In an email sent by Respondent at approximately 13:11:00 that afternoon, Respondent observed that if PFSD closed above 3.8 cents that day, the stock's four day moving average would cross the stock's nine day moving average, thus triggering a buy signal for those market participants who used moving averages to guide their trading strategy, and providing some positive momentum to the stock. Thereafter, with a little more than a minute left in the trading day, Respondent executed a matched trade between two PVST customers at a price of 3.9 cents per share, notwithstanding the fact that Respondent had traded PFSD in multiple transactions during the course of the day at either 3.5 cents or 3.6 cents per share. That trade was the last trade of the day, and caused PFSD's four day moving average to cross above its nine day moving average. Respondent accounted for all of the trading activity in PFSD that day. By using a matched trade to mark the close at 3.9 cents, Respondent intentionally created a false and misleading buy signal for other market participants. The next day, February 23, 2010, PFSD opened at 4 cents per share in an independent transaction not involving PVST, 0.1 cent higher than Respondent's trade marking the prior day's close, and 0.4 cents higher than the highest price at which PFSD

¹ For purposes of this AWC, Respondent's own accounts include an account for a family member, as well as a consulting company that he controlled. Respondent controlled the trading activity conducted in both accounts.

had traded the prior day.

4. During at least part of the Review Period, Respondent believed that certain persons were attempting to depress the price of PFSD, by selling stock at prices lower than Respondent thought warranted by the market, thereby causing precipitous declines in PFSD's price. When, in Respondent's view, such declines occurred, Respondent executed trades in PFSD at higher prices in order to support the market for the stock, and to buy up stock from persons Respondent believed were trying to depress the stock's price, thereby preventing future precipitous price declines. For example, on February 8, 2010, PFSD opened at 3.4 cents in an independent third party trade at 12:03:52. That price was 0.8 cents lower than the price at which PFSD had last traded. Thereafter, at 14:01:50, Respondent executed a matched trade between himself and a PVST customer at a price of 4.1 cents. That trade was the only other trade that day, and caused the stock to close 0.7 cents higher than the opening price. In an email to two other individuals that day, Respondent noted that the person who sold the stock at 3.4 cents "just dumped on you and I again this morning." Respondent went on to note that "[r]ight now [the sellers] are living rent free in my mind and I want to raise the rent or evict [them]."
5. Respondent also used matched trades to avoid selling shares of PFSD into the open market, and thereby avoid depressing the price of the stock. For example, during the Review Period, Respondent opened accounts for seven individuals, who asked Respondent to help them liquidate PFSD shares that they had received directly from the issuer in certificate form. Once the shares became freely tradable, Respondent sold the shares for the accounts. Respondent sold a total of 4,318,776 shares for these seven liquidation accounts during the course of the Review Period. Respondent sold approximately 79 percent of those shares in matched trades with other PVST customers, and not in the open market. Respondent acknowledged that he could not have sold such shares into the open market in any reasonable timeframe without depressing the market for PFSD. Respondent also acknowledged that he sold the shares in matched trades rather than the open market, at least in part, in order to avoid depressing the price of PFSD, and to avoid putting stock into the hands of those persons that Respondent believed were attempting to depress the price of the stock.
6. By reason of the conduct described in paragraphs 1 through 5 above, Respondent, in connection with the purchase or sale of a security, directly or indirectly, by use of means or instrumentalities of interstate commerce, or the mails, or the facilities of national securities exchange, knowingly or recklessly, employed a device, scheme or artifice to defraud; and engaged in an act, practice or course of business which operated or would operate as a fraud or deceit upon any person in willful violation of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, and in violation of FINRA Rules 2010 and 2020.

Failure to Supervise

7. As the President, CEO and CCO of PVST, Respondent was responsible for establishing and maintaining a supervisory system to supervise the activities of each registered representative and registered principal, including the Respondent himself, that was reasonably designed to achieve compliance with applicable securities laws and regulations. The supervisory system and procedures implemented by Respondent at PVST, however, failed to provide for any review of Respondent's trading activity for his own account, or for those of his PVST customers, including his discretionary trading clients, that was designed to detect and prevent manipulative trading activity. Although PVST had a second principal who could have performed such reviews, Respondent never asked the second principal to conduct such reviews, and such principal was never given access to all of the information that he would have needed to perform that function.
8. Respondent also failed to ensure that his email communications were reviewed to help ensure compliance with applicable securities laws and regulations. Although PVST had a second principal who could have conducted such reviews, Respondent never asked the second principal to conduct such reviews, and never provided the second principal with a copy of his emails for such a review during the Review Period.
9. By reason of the conduct described in paragraphs 7 through 8 above, Respondent violated FINRA Rule 2010 and NASD Rule 3010.

B. Respondent also consents to the imposition of the following sanctions:

A bar from associating with any FINRA member in any capacity.

I understand that if I am barred or suspended from associating with any FINRA member, I become subject to a statutory disqualification as that term is defined in Article III, Section 4 of FINRA's By-Laws, incorporating Section 3(a)(39) of the Securities Exchange Act of 1934, as amended. Accordingly, I may not be associated with any FINRA member in any capacity, including clerical or ministerial functions, during the period of the bar or suspension. (See FINRA Rules 8310 and 8311.)

I understand that this settlement includes a finding that I willfully violated Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder. and that under Article III, Section 4 of FINRA's By-Laws, this makes me subject to a statutory disqualification with respect to association with a member.

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

II.

WAIVER OF PROCEDURAL RIGHTS

Respondent specifically and voluntarily waives the following rights granted under FINRA's Code of Procedure:

- A. To have a Complaint issued specifying the allegations against me;**
- B. To be notified of the Complaint and have the opportunity to answer the allegations in writing;**
- C. To defend against the allegations in a disciplinary hearing before a hearing panel, to have a written record of the hearing made and to have a written decision issued; and**
- D. To appeal any such decision to the National Adjudicatory Council ("NAC") and then to the U.S. Securities and Exchange Commission and a U.S. Court of Appeals.**

Further, Respondent specifically and voluntarily waives any right to claim bias or prejudgment of the Chief Legal Officer, the NAC, or any member of the NAC, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including acceptance or rejection of this AWC.

Respondent further specifically and voluntarily waives any right to claim that a person violated the ex parte prohibitions of FINRA Rule 9143 or the separation of functions prohibitions of FINRA Rule 9144, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including its acceptance or rejection.

III.

OTHER MATTERS

Respondent understands that:

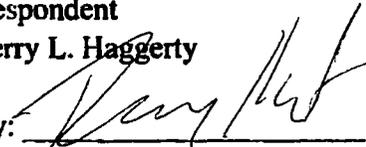
- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs (“ODA”), pursuant to FINRA Rule 9216;**
- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against Respondent; and**
- C. If accepted:**
 - 1. this AWC will become part of my permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against me;**
 - 2. this AWC will be made available through FINRA's public disclosure program in accordance with FINRA Rule 8313;**
 - 3. FINRA may make a public announcement concerning this agreement and the subject matter thereof in accordance with FINRA Rule 8313; and**
 - 4. Respondent may not take any action or make or permit to be made any public statement, including in regulatory filings or otherwise, denying, directly or indirectly, any finding in this AWC or create the impression that the AWC is without factual basis. Respondent may not take any position in any proceeding brought by or on behalf of FINRA, or to which FINRA is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects my: (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.**

I certify that I have read and understand all of the provisions of this AWC and have been given a full opportunity to ask questions about it; that I have agreed to the AWC's provisions voluntarily; and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein and the prospect of avoiding the issuance of a Complaint, have been made to induce me to submit it.

April 14, 2016
Date

Respondent

Terry L. Haggerty

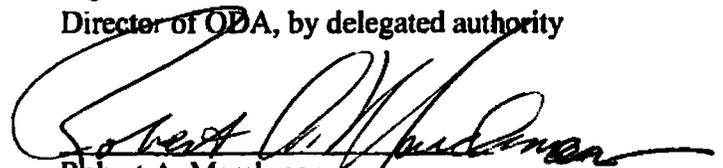
By: 

Name: TERRY HAGGERTY

Accepted by FINRA:

5/10/16
Date

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


Robert A. Marchman
Executive Vice President
FINRA Department of Market Regulation