

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2010025742201**

TO: Department of Enforcement
Financial Industry Regulatory Authority ("FINRA")

RE: Securities America, Inc., Respondent
Member Firm
CRD No. 10205

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Securities America, Inc. (hereinafter, "Securities America," "Firm", or "Respondent") submits 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

Securities America has been a FINRA member since November 3, 1981 and engages in the sale of municipal and corporate debt securities, U.S. Government securities, equities, mutual funds, options, oil and gas interests, private placements, variable contracts and direct investments. The Firm employs approximately 2,235 registered persons that operate from approximately 1,280 branch offices. The Firm's principal office is in La Vista, Nebraska.

RELEVANT DISCIPLINARY HISTORY

In April 2013, Securities America was censured and fined \$100,000 in an AWC (2010022518105) for its failure to have an adequate supervisory system to monitor electronic communications with customers. Due to the inadequate

system, the Firm failed to detect several emails that misrepresented the liquidity and principal protection of investments in the IMH Fund and notes issued by Medical Capital Holdings, Inc.

On November 2011, Securities America was censured and fined \$250,000 in an AWC (2010022518101) for unsuitable sales of Shale Royalties 15 and 20 issued by Provident Royalties, LLC, and for failure to enforce reasonable written supervisory procedures regarding due diligence to be conducted prior to approval of the sale of these two private placements. Securities America sold a total of approximately \$25,000,000 of Provident Shale Royalties 15 and 20 to approximately 400 investors. These sales represented approximately 5.2% of both the total funds raised by Provident and the total number of investors in the various Shale Royalties offerings.

OVERVIEW

From January 1, 2007 through March 31, 2013, Securities America failed to establish, maintain, and enforce a reasonable supervisory system regarding the use of consolidated reports by its registered representatives. The Firm made a consolidated reporting system available to its registered representatives which allowed the representatives to enter customized values for assets and accounts held away from the Firm; however, the Firm did not have a satisfactory system to supervise the accuracy of valuations provided to the customers, in violation of NASD Rules 3010(a) and (b) and 2110 and FINRA Rule 2110. The Firm's failure to adequately supervise the valuations used on the consolidated reports, resulted in inaccurate statements being sent to customers, in violation of NASD Rules 2210(d)(1) and 2110 and FINRA Rule 2010. The Firm also failed to retain some of the consolidated reports, in violation of Section 17 of the Securities Exchange Act of 1934 and SEC Rule 17a-4 thereunder; NASD Rules 3110, 3010(d)(3), and 2110, and FINRA Rules 4511 and 2010.

FACTS AND VIOLATIVE CONDUCT

A consolidated report is a single document that combines information regarding most or all of a customer's financial holdings, regardless of where those assets are held. Consolidated reports supplement, but do not replace customer account statements required pursuant to NASD Rule 2340.

FINRA Regulatory Notice 10-19 reminded member firms that consolidated reports are communications with the public by the firm and must be clear, accurate, and not misleading. Under the notice, firms that allow individual representatives to create consolidated reports were reminded to supervise the activity. For instance, where the consolidated reports reflect assets held away

from the firm, the firm was reminded to ensure that registered representatives were taking reasonable steps to accurately reflect information regarding outside accounts and assets. The notice detailed the risks associated with poor safeguards, including use of account information for fraudulent activity, inaccurate reporting causing customers to be misled or confused, reliance by customers on the valuations in dealings with third parties, and misuse of the information by firm personnel.

Since January 1, 2007, Securities America made available to its registered representatives the Albridge Wealth Reporting System which enables a representative to create a consolidated report. The Albridge consolidated reports used by Securities America representatives are customizable and include a feature allowing a registered representative to manually input valuations for assets held outside the Firm. In reports where the manual feature is used, the report contains a section clearly designated as "Manual Accounts." In addition, the reports that employ the manual feature contain a specific disclosure, stating that the report includes manually entered values. Despite these apparent indications that Albridge allowed manual entry of asset values, Securities America remained unaware of this aspect of the Albridge system until the last quarter of 2011.

Deficient Supervisory Systems; Improper Reliance on Voluntary Compliance

From on or about January 1, 2007 through on or about March 31, 2013, Securities America failed to establish, maintain, and enforce a reasonable supervisory system regarding the use of consolidated reports by its registered representatives.

The written procedures required registered representatives to submit templates of the proposed form of the Albridge report for approval prior to use. Once the template was approved by the Firm's Compliance Communications Review Department, the representative submitted a Position and/or Performance Report Log to Compliance on a quarterly basis with the names of the customers who were receiving the Albridge reports. Under the written procedures, Compliance would then randomly sample consolidated reports listed on the quarterly log. Each representative was also required to provide copies of the Albridge reports to his or her branch manager on a monthly basis as part of their monthly correspondence submission. These consolidated reports were to be reviewed by the branch manager and maintained in the branch office files.

However, Securities America relied on the registered representatives to disclose that they were using Albridge, relied on the registered representatives to provide a complete and accurate list each quarter of clients who received Albridge reports, and relied upon the registered representatives to provide copies of the consolidated reports to their branch managers. Securities America had no way to

verify that it was capturing the extent of the consolidated report activity, other than through routine audits. Securities America was able to identify over 1,150 registered representatives who were using the Firm-provided Albridge system, but could not verify which representatives actually sent statements to customers due to the Firm's inability to adequately monitor the system. Furthermore, despite the sampling procedure and maintenance of some reports in the correspondence files, the Firm's review failed to detect the use of manual entry or inaccurate valuations. Moreover, after the Firm became aware of the manual entries and instituted some procedures in 2012, the procedures were deficient. As detailed below, numerous inaccurate entries escaped the Firm's detection through March 2013.

As a result of the foregoing conduct, the Firm violated NASD Rules 3010(a) and (b), and 2110 (for conduct before December 15, 2008) and FINRA Rule 2010 (for conduct after December 14, 2008).

Inaccurate and Misleading Consolidated Reports

From January 1, 2007 through on or about March 31, 2013, at least 500 registered representatives generated one or more Albridge reports using the manual entry feature. In fact, between 2007 and 2011, these registered representatives generated almost 2.5 million Albridge reports. The Firm was unable to document the number of the 2.5 million generated reports that ultimately went to clients. A review of Albridge reports issued during the fourth quarter of 2011 revealed numerous instances where the representative had input inaccurate values for investments such as Medical Capital notes and Provident Shale Royalties. Although Medical Capital and Provident Shale Royalties shares were in receivership as of August 2009, the statements continued to show the value of the investment at par value.

As of March 31, 2013, a review of 800 manually entered positions disclosed that 500 of the positions had been overvalued on Albridge reports. The overvalued positions included 300 Medical Capital investments, investments in Provident Shale Royalties, and investments in other illiquid securities.

As a result of the foregoing conduct, the Firm violated NASD Rules 2210(d)(1) and 2110 (for conduct before December 15, 2008) and FINRA Rule 2010 (for conduct after December 14, 2008).

Failure to Retain Customer Correspondence

Section 17 of the Securities and Exchange Act of 1934 and Rule 17a-4(b) thereunder and NASD Rule 3110¹ require all member firms to preserve for three years, originals of all communications sent by the member relating to its business, including communications with the public. NASD Rule 3010(d)(3) requires each member firm to retain correspondence of its registered representatives relating to its securities business in accordance with NASD Rule 3110. From January 1, 2008 through December 31, 2011, the Firm failed to maintain all Albridge consolidated reports sent to its customers. Consequently, the Firm has no record of numerous Albridge reports distributed to customers.

As a result of the foregoing conduct, the Firm violated Section 17 of the Securities Exchange Act of 1934, and SEC Rule 17a-4 thereunder; NASD Rules 3010(d)(3); 3110 (for conduct before December 5, 2011); and 2110 (for conduct before December 15, 2008); and FINRA Rules 4511 (for conduct after December 4, 2011) and 2010 (for conduct after December 14, 2008).

OTHER FACTORS

- B. Securities America, Inc. also consents to the imposition of the following sanctions:

A censure and a \$625,000 fine.

Respondent agrees to pay the monetary sanctions upon notice that this AWC has been accepted and that such payments are due and payable. Respondent has submitted an Election of Payment form showing the method by which it proposes to pay the fine imposed.

Respondent specifically and voluntarily waives any right to claim that it is unable to pay, now or at any time hereafter, the monetary sanctions imposed in this matter.

The sanctions imposed herein shall be effective on a date set by FINRA staff.

¹ NASD Rule 3110 was superseded by FINRA Rule 4511, effective Dec. 5, 2011.

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 it;
- 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 General Counsel, 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:

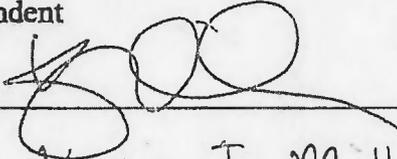
- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs ("ODA"), pursuant to FINRA Rule 9216;

- 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 Respondent's permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against it;
 2. this AWC will be made available through FINRA's public disclosure program in response to public inquiries about Respondent's disciplinary record;
 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 Respondent's (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.
- D. Respondent may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Respondent understands that it may not deny the charges or make any statement that is inconsistent with the AWC in this Statement. This Statement does not constitute factual or legal findings by FINRA, nor does it reflect the views of FINRA or its staff.

The undersigned, on behalf of Securities America, certifies that a person duly authorized to act on Securities America's behalf has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that Securities America has agreed to its 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, has been made to induce the Firm to submit it.

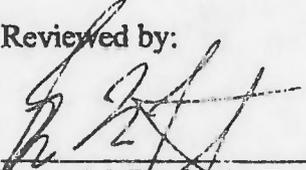
12/10/13
Date (mm/dd/yyyy)

Securities America, Inc.
Respondent

By: 

Name: Kevin J. Miller

Title: SVP & General Counsel

Reviewed by: 

Bruce M. Bettigole, Esq.
Carmen Brun, Esq.
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Accepted by FINRA:

March 12, 2014
Date

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

A handwritten signature in blue ink, appearing to read "Laura Leigh Blackston", is written over a horizontal line.

Laura Leigh Blackston
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