

FINANCIAL INDUSTRY REGULATORY AUTHORITY

In the Matter of
the Continued Association of

Barry T. Eisenberg
(CRD No. 2313107)

as a

General Securities Representative

With

Alexander Capital, L.P.
(CRD No. 40077)

Notice Pursuant to Rule 19h-1
Securities Exchange Act
of 1934

SD-2210

Date: November 24, 2020

I. Introduction

On July 10, 2018, Alexander Capital, L.P. (“ACLP” or “Firm”) filed a Membership Continuance Application (“MC-400” or “Application”) with FINRA’s Department of Credentialing, Registration, Education, and Disclosure (“CRED”) seeking to permit the continued association of Barry T. Eisenberg (“Eisenberg”), a person subject to a statutory disqualification, as a General Securities Representative.¹ A hearing was not held in this matter; rather, pursuant to FINRA Rule 9523(b), FINRA’s Department of Member Regulation (“Member Regulation” or “Department”) approves the Firm’s Application and files this Notice pursuant to Rule 19h-1 of the Securities Exchange Act of 1934 (“Exchange Act” or “SEA”).

II. The Statutorily Disqualifying Event

Eisenberg is subject to statutory disqualification, as that term is defined in Section 3(a)(39)(F) of the Exchange Act, which incorporates by reference Section 15(b)(4)(E), as a result of a July 29, 2018 order (“SEC Order”) issued by the U.S. Securities and Exchange

¹ See MC-400 Application and related attachments filed by ACLP on July 10, 2018 with CRED, f/k/a Registration and Disclosure (“RAD”), attached as Exhibit 1. The Firm authorized the deduction of the \$5,000 processing fee for the Application from its Central Registration Depository (“CRD”) account on July 25, 2018. See Exhibit 1 at p. 240.

Commission (“SEC” or “Commission”).² The SEC found Eisenberg failed to reasonably supervise a registered representative (“RR”) of ACLP, within the meaning of Section 15(b)(4)(E) of the Exchange Act, incorporated by reference in Section 15(b)(6), with a view of preventing and detecting the RR’s violations of Section 17(a) of the Securities Act of 1933 and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.³

Specifically, while serving as the branch manager of the Firm’s New York office, Eisenberg directly supervised the RR who made unsuitable investment recommendations to two customers and churned their accounts from May 2013 through August 2014. According to the SEC Order, Eisenberg failed to review and take reasonable action in response to alerts generated by the Firm’s online surveillance tool for these customers’ accounts.⁴ On multiple occasions, he ignored red flags that were indicative of excessive trading and failed to monitor whether the RR adhered to set commission limits or continued engaging in excessive trading despite the commission restrictions imposed on him.⁵

Because of his misconduct, the SEC barred Eisenberg from associating with any broker or dealer in a supervisory capacity, with the right to reapply after five years from the date of the SEC Order.⁶ He was also ordered to pay a civil penalty of \$15,000, which was to be paid in six installments, within 300 days of the SEC’s Order.⁷

III. Background Information

A. Eisenberg

1. Proposed Duties & Responsibilities

ACLP represented that Eisenberg will work four days per week from his residence, located at 818 N. Berks Street, Allentown, PA and once per week from the Firm’s New York office, located at 17 State Street, 5th Floor, New York, New York.⁸ Eisenberg manages approximately thirty-five retail accounts, consisting of family accounts and referrals.⁹ As a General Securities Representative, he will handle those accounts, speak and meet with existing and prospective customers, accept orders, place orders for execution and conduct

² See SEC Order, *In the Matter of Barry T. Eisenberg*, Exchange Act Release No. 83564 (June 29, 2018), attached as Exhibit 2.

³ See Exhibit 2 at p. 5.

⁴ *Id.* at p. 3.

⁵ *Id.* at pp. 2-5.

⁶ *Id.* at pp. 5-7. Eisenberg will be eligible to reapply after June 29, 2023.

⁷ *Id.* at p. 6. Both the SEC’s Department of Finance and the Firm have confirmed that the fine was paid in full.

⁸ See Letter from Firm dated March 12, 2020 at response 8, attached as Exhibit 3. See also Exhibit 1 at p. 157, response 6.

⁹ See Exhibit 3 at response 14.

other normal duties associated with those accounts.¹⁰ The Firm remotely monitors his work on these accounts through the Firm and ACLP's clearing platforms.¹¹ Additionally, all of his telephone calls are routed through ACLP's systems and his email communications are monitored through the Firm's Global Relay system.¹² Moreover, the Firm represented that Eisenberg will not meet with customers in his home office nor would his home office be held out to the public as an ACLP office.¹³ For his work, Eisenberg will be compensated by commission.¹⁴

2. Registration History

Eisenberg first registered in the securities industry in March 1993 as a General Securities Representative (Series 7).¹⁵ In that same month and year, he passed the Uniform Securities Agent – State Law Examination (Series 63).¹⁶ In December 1996, he qualified as a General Securities Principal (Series 24).¹⁷

3. Employment History

Eisenberg has been associated with the following firms during the following periods:¹⁸

<u>Employer</u>	<u>Period of Employment</u>
ACLP	May 2013 – Present
J.P. Turner & Company, LLC	August 2004 – May 2013
Aura Financial Services, Inc.	March 2004 – August 2004
D.I.F. Securities, Inc.	February 1998 – December 2003
Clearing Services of America, Inc.	August 1997 – February 1998
Royce Investment Group, Inc.	December 1996 – August 1997
Marlowe & Company	October 1996 – December 1996
Royce Investment Group, Inc.	January 1993 – September 1996

¹⁰ See Exhibit 1 at p. 157, responses 3 and 4.

¹¹ See Exhibit 3 at response 8.

¹² *Id.* at responses 8 and 13.

¹³ *Id.* at responses 10 and 11.

¹⁴ See Exhibit 1 at p. 157 response 5.

¹⁵ See CRD Snapshot for Eisenberg, attached as Exhibit 4 at p. 13.

¹⁶ *Id.*

¹⁷ *Id.* Eisenberg was given credit for the Securities Industry Essentials Examination in October 2018. See also FINRA Regulatory Notice 17-30, *SEC Approves Consolidated FINRA Registration Rules, Restructured Representative-Level Qualification Examinations and Changes to Continuing Education Requirements* (October 1, 2018), available at <https://www.finra.org/sites/default/files/Regulatory-Notice-17-30.pdf>.

¹⁸ See Exhibit 4 at pp. 3-7.

4. Recent FINRA Examination

In February 2019, FINRA completed a non-routine examination of Eisenberg's business activities for the period of May 9, 2017 through April 29, 2018.¹⁹ The examination did not result in any findings.

5. Outside Business Activities ("OBA")

Since June 2006, Eisenberg served as Director of Broadcast Operations of Eisenberg Productions, a non-investment related entity dealing in professional sports broadcasting. He devotes approximately 10 hours a week during non-trading hours to this entity.²⁰

6. Recent Disciplinary Matters/Regulatory Actions

According to CRD, Eisenberg is subject to a customer-initiated arbitration filed on May 13, 2020, alleging failure to supervise.²¹ This matter is currently pending with FINRA's Department of Dispute Resolution.

Member Regulation is not aware of any other recent disciplinary or regulatory proceedings, against Eisenberg.

7. Prior SEA Rule 19h-1 or 19d-1 Notices

Eisenberg has no previous approvals or denials pursuant to SEA Rules 19h-1 or 19d-1.

B. The Firm

ACLP is based in New York, New York and has been a member of FINRA since June 1996.²² The Firm has four branch offices, one of which is an Office of Supervisory Jurisdiction.²³ ACLP employs approximately 68 registered representatives, 33 of which are registered principals, and 7 non-registered persons.²⁴ In addition to Eisenberg, the Firm currently employs three other statutorily disqualified persons.²⁵

¹⁹ See Disposition Letter dated February 7, 2019 for the Examination of Barry Eisenberg Examination No. 20180573514, attached as Exhibit 5. The Firm did not provide a response to this letter.

²⁰ See Exhibit 4 at pp. 12-13.

²¹ See Exhibit 4 at pp. 25-26.

²² See Exhibit 1 at p. 159.

²³ FINRA confirmed this through an analysis of the Firm's information contained in CRD, last performed on November 23, 2020.

²⁴ FINRA confirmed this through an analysis of the Firm's information contained in CRD, last performed on November 23, 2020.

²⁵ Jason J. DeFelice (CRD No. 2748462) is subject to disqualification based on an Offer of Settlement entered with FINRA on June 8, 2009 finding, among other things, that DeFelice willfully violated Section 10(b) of

ACLP is engaged in the following lines of business:²⁶ broker or dealer retailing corporate equity securities over-the-counter; broker or dealer selling corporate debt securities; underwriter or selling group participant in corporate securities other than mutual funds; mutual fund retailer; U.S. government securities broker; municipal securities broker; broker or dealer selling variable life insurance or annuities; put and call broker or dealer or option writer; investment advisory services; broker or dealer selling tax shelters or limited partnerships in primary distributions; non-exchange member arranging for transactions in listed securities by exchange member; trading securities for own account; and private placement of securities. ACLP is a member of the Municipal Securities Rulemaking Board (“MSRB”).²⁷

1. Recent Routine FINRA Examinations

FINRA conducted two routine examinations of ACLP in the last two years which resulted in Cautionary Actions. FINRA cited the Firm in December 2019 for an exception related to the Firm’s failure to establish and update procedures designed to ensure compliance with MSRB Rule G-15 and FINRA Rule 2232.²⁸

the Exchange Act and Rule 10b-5 thereunder. DeFelice was fined and suspended from association in any capacity for two months. DeFelice paid all fines and served his suspension. A Membership Continuance Application was not required under FINRA Rules for this matter as there are no continuing sanctions following the completion of DeFelice’s suspension. DeFelice is currently classified as a Tier 3 statutorily disqualified individual, permitted to associate without any special supervision. There are no special examination requirements associated with this classification of disqualified persons. *See also* FINRA Regulatory Notice 09-19, *Amendments to FINRA Rule 9520 Series to Establish Procedures Applicable to Firms and Associated Persons Subject to Certain Statutory Disqualification* (June 15, 2009), available at <https://www.finra.org/sites/default/files/NoticeDocument/p118466.pdf>.

Robert Anthony Guidici Pietro (CRD No. 1588069) is subject to disqualification based on a Missouri Securities Commission Cease and Desist Order and subsequent Amended Cease and Desist Order, Case No. CD-97-06, dated May 28, 1997 and February 27, 1998, respectively, where Guidici Pietro was ordered to cease and desist from the offer and sale of securities in violation of Missouri antifraud statutes. A Membership Continuance Application was not required under FINRA Rules for this matter as the sanctions do not involve licensing or registration revocation or suspension (or analogous sanctions) and the sanctions are no longer in effect. Guidici Pietro is also currently classified as a Tier 3 statutorily disqualified individual.

Salvatore Anthony Martorano (CRD No. 2199450) is subject to statutory disqualification based on a Consent Order issued by New Hampshire Securities Department, Case No. COM98-004 dated July 22, 1998 in which Martorano was found to have violated laws or regulations that prohibit fraudulent, manipulative, or deceptive conduct. Martorano agreed not to apply for a license for 3 years. Martorano paid all fines and made restitution. A Membership Continuance Application was not required under FINRA Rules for this matter as the sanctions are no longer in effect. Martorano is also currently classified as a Tier 3 statutorily disqualified individual.

²⁶ See CRD Excerpt for ACLP: Types of Business, attached as Exhibit 6.

²⁷ Confirmed through a search of MSRB’s publicly available member database, last performed on November 24, 2020.

²⁸ See FINRA’s Disposition Letter dated December 4, 2019, the Examination Report dated October 28, 2019, and the Firm’s response (without attachments) dated November 26, 2019, for Examination No. 20190606446, collectively attached as Exhibit 7.

FINRA cited the firm in May 2019 with exceptions related to the Firm's failure to evidence having conducted reasonable due diligence in connection with private placements; to establish and maintain a supervisory system reasonably designed to achieve compliance with aspects of SEC Regulation S-P; to timely accrue expenses; and to update several registered representatives' Uniform Application For Securities Industry Registration or Transfer (Form U4).²⁹ A Cautionary Action was separately issued to a RR for one exception noted on the examination report.³⁰

2. Recent Non-Routine FINRA Examinations

In the past two years, ACLP was also the subject of three non-routine examinations that resulted in Cautionary Actions. The Firm was cited in September 2019 for the two exceptions relating to the Firm's failure to establish and enforce an adequate supervisory system to ensure investments in accounts serviced by one of its RRs was appropriately suitable and that the investment profiles for the RR's customers were complete and accurate.³¹ The Firm was also cited in April 2019 for exceptions related to the Firm's failure to maintain adequate supervisory procedures reasonably designed to achieve compliance in connection to sales of Volatility Linked Exchange Traded Products.³²

The non-routine examination completed in January 2019 did not result in any findings with respect to the Firm.³³

3. Recent Regulatory Actions

ACLP has been the subject of four recent regulatory actions: a FINRA Letter of Acceptance, Waiver and Consent ("AWC") two consent orders issued by state regulators, and an SEC order, which also rendered the Firm statutory disqualified.

i. FINRA Action

ACLP entered into an AWC with FINRA in October 2019 which involved allegations that at various points between 2016 and 2018 ACLP did not meet its net capital requirement, did not prepare accurate net capital computations, filed inaccurate Financial and

²⁹ See FINRA's Disposition Letter dated May 31, 2019, the Examination Report dated February 27, 2019, and the Firm's response (without attachments) dated April 5, 2019, for Examination No. 20180564833, collectively attached as Exhibit 8.

³⁰ *Id.* at Exception 8.

³¹ See FINRA Examination Disposition Letter dated September 12, 2019, the Examination Report dated May 23, 2019, and the Firm's response dated June 27, 2019, for Examination No. 20180579548, attached as Exhibit 9.

³² See FINRA Disposition Letter dated April 15, 2019 for Examination No. 20180586273, attached as Exhibit 10. The Firm did not provide a response to this letter.

³³ See FINRA Disposition Letter and Examination Report dated January 24, 2019 for Examination No. 20180606343, attached as Exhibit 11. The Firm did not provide a response to this letter as no exceptions were noted.

Operational Combined Uniform Single reports, maintained inaccurate books and records, as well as engaged in firm commitment underwriting without FINRA's approval.³⁴ ACLP was censured and agreed to pay a \$45,000 fine.³⁵

ii. State Actions

The Firm entered into a Consent Order with Arkansas Securities Department in November 2019 involving allegations that it allowed an unregistered RR to conduct a securities business from a non-registered branch location.³⁶ The Firm agreed to pay a \$15,000 fine, register the location as a branch office or qualify for an exemption from registration under the Arkansas Securities Act, and conduct a review of its supervisory provisions and practices to ensure compliance with Arkansas registration requirements.³⁷

ACLP also entered into a consent agreement with Montana in October 2018 to settle allegations that it failed to fully comply with heightened supervision conditions imposed on a registered representative and failed to reasonably supervise its salespersons or employees,³⁸ having allowed its agents to churn customer accounts, charge excessive fees, transact unauthorized business and make unsuitable recommendations.³⁹ The Firm agreed to pay restitution of \$106,339.00 to three customers and a \$100,000 fine.⁴⁰

iii. SEC Order and Prior SEA Rule 19h-1 Notice

The SEC issued an order in June 2018 ("July 2018 SEC Order") which found that ACLP failed to reasonably supervise three registered representatives, with a view to prevent and detect violations of federal securities laws.⁴¹ According to the Order, between 2012

³⁴ See FINRA AWC No. 2016047616401, executed by ACLP on October 18, 2019 and accepted by FINRA October 31, 2019, attached as Exhibit 12.

³⁵ *Id.* at p. 5. The Firm is current on its payment plan with FINRA in connection with this fine.

³⁶ See Consent Order, *In the Matter of Christopher Schoefield Carlin and Alexander Capital, L.P.*, Case No. S-19-0060 dated November 20, 2019; and Statement and Pledge of Anthony Brasuell dated October 23, 2019 attached collectively as Exhibit 13.

³⁷ *Id.* at p. 4. ACLP paid the fine on November 21, 2019. The Firm attested that the business location in Bryant, Arkansas qualified for an exemption from registration, as defined by Arkansas Code Section 23-42-102(2)(c)(iv) and NASD Rule 3010(g)(2)(A)(iv). In addition, FINRA received confirmation from Firm's counsel that the Firm has completed all undertakings in connection with this Order.

³⁸ See *Consent Agreement and Final Order*, Case No. SEC-2016-106 dated October 9, 2018, attached as Exhibit 14. Eisenberg was named as a respondent in this action; however, he was dismissed without prejudice, upon his agreement to the Order. *Id.* at p. 9. See also Exhibit 4 at pp. 27-28.

³⁹ See Form U6 filed by the State of Montana on October 30, 2018, attached as Exhibit 15.

⁴⁰ See Exhibit 14 at pp. 2-3. The Firm paid the restitution and fine amounts in full on October 9, 2018. See also Exhibit 15 at 3. Additionally, Eisenberg was named as a respondent in this action; however, the action was dismissed against him, upon the Firm's consent and agreement to the Final Order.

⁴¹ See SEC Order, *In the Matter of Alexander Capital, L.P.*, Admin. Proc. File No. 3-18561, Release No. 83562 dated June 29, 2018, attached as Exhibit 16.

through 2014, the Firm failed to reasonably implement and follow its policies and procedures, thereby permitting a “lax compliance environment.”⁴² Among other things, ACLP failed to reasonably monitor and discipline its registered representatives and failed to act, through its supervisors, on indications of potential misconduct in the handling of customer accounts.⁴³ ACLP was censured, ordered to pay disgorgement, prejudgment interest, and civil penalties totaling \$410,986.50, and comply with certain undertakings relating to a review and revision of the Firm’s WSPs and supervisory systems that are designed to prevent and detect unsuitable recommendations, churning and unauthorized trading.⁴⁴

As a result of the July 2018 SEC Order, the Firm is statutorily disqualified, as that term is defined in Section 3(a)(39)(F), which incorporates by reference Section 15(b)(4)(E) of the Exchange Act. On July 10, 2019, FINRA filed a Notice with the SEC pursuant to SEA Rule 19h-1 approving ACLP’s continued membership despite its statutory disqualification. The SEC acknowledged FINRA’s Notice on September 10, 2019.⁴⁵

IV. Proposed Supervision

A. Primary Supervisor – Orlando Ventura (CRD No. 2818665)

The Firm proposed Orlando Ventura (“Ventura”) to serve as Eisenberg’s primary supervisor.⁴⁶ Ventura works from the Firm’s home office at 17 State Street, New York, New York and has been employed by ALCP since May 2014.⁴⁷ Ventura has a small customer base and executes approximately two (2) trades per week.⁴⁸ Ventura does not currently supervise anyone and is not related to Eisenberg by either blood or marriage.⁴⁹

1. Registration History

Orlando first registered in the securities industry as a General Securities Representative (Series 7) in November 1996 and passed the Uniform Securities Agent State Law

⁴² *Id.* at p. 2.

⁴³ See Exhibit 16 at pp. 2-4.

⁴⁴ *Id.* at pp. 5-9. The Firm was ordered to pay \$193,774.86 in disgorgement and civil penalties, respectively and \$23,436.78 in pre-judgment interest. The Firm completed all payments in connection with the Order as of December 2018. FINRA received confirmation from Firm’s counsel that the Firm has completed all undertakings in connection with this Order.

⁴⁵ See *In the Matter of the Continued Membership of Alexander Capital, L.P.*, SD-2209, dated July 10, 2019, and letter of acknowledgement from the SEC dated September 10, 2019, collectively attached as Exhibit 17.

⁴⁶ See Email from Firm dated July 21, 2020, attached as Exhibit 18.

⁴⁷ See CRD Excerpt for Ventura at p. 3 attached as Exhibit 19.

⁴⁸ See Exhibit 18.

⁴⁹ See Email from Firm dated July 31, 2020 attached as Exhibit 20.

Examination (Series 63) that same year and month.⁵⁰ He qualified as a General Securities Principal (Series 24) in November 2004.⁵¹

2. Employment History

Ventura has been associated with the following firms during the following periods:⁵²

<u>Employer</u>	<u>Period of Employment</u>
ACLP	May 19, 2014 – Present
J.P. Turner & Company, L.L.C	May 16, 2006 – May 16, 2014
Gunnallen Financial, Inc	October 31, 2003 – May 16, 2006
Harrison Securities, Inc.	January 2, 2002 - October 31, 2003
D.I.F. Securities, Inc.	June 3, 1998 – October 5, 2001
Carnegie Investor Services, Inc.	February 27, 1998 – June 2, 1998
First Allied Securities, Inc.	October 24, 1996 – February 25, 1998
Continental Broker-Dealer Corp.	September 24, 1996 – Nov. 5, 1996

3. OBA's

Ventura reported that he owns a non-securities business, “Gadegts A Must.” His duties include the on-line sale of gadgets (i.e. ear buds and keychains), maintaining inventory, delivery, and website maintenance.⁵³

4. Recent Disciplinary Matters/Regulatory Actions

FINRA is unaware of any disciplinary or regulatory proceedings or customer complaints against Ventura.

B. Alternate Supervisor – Carl M. Martorano (CRD No. 2286051)

The Firm proposed Carl M. Martorano (“Martorano”) to serve as Eisenberg’s alternate supervisor.⁵⁴ Martorano works from the Firm’s home office, in New York, New York and he has been employed with ACLP since September 2018.⁵⁵ Martorano currently supervises 45 individuals and is responsible for reviewing the Firm’s trading and non-trading

⁵⁰ See Exhibit 19 at p. 13.

⁵¹ *Id.* Ventura was given credit for the Securities Industry Essentials Examination in October 2018. See also Footnote 17.

⁵² See Exhibit 19 at pp. 4-7.

⁵³ *Id.* at pp. 12-13.

⁵⁴ See Exhibit 18.

⁵⁵ See CRD Snapshot for Martorano at p. 3, attached as Exhibit 21.

activities, new account approval, and various back office operations.⁵⁶ Eisenberg and Martorano are not related by blood or marriage.⁵⁷

1. Registration History

Martorano first qualified as a General Securities Representative (Series 7) in January 1993.⁵⁸ He passed the Uniform Securities Agent State Law Examination (Series 63) in February 1993 and the Equity Trader Limited Representative Examination (Series 55) in April 1999.⁵⁹ He passed the National Commodities Futures Examination (Series 3) in December 2004 and qualified as a General Securities Principal (Series 24) in October 2010.⁶⁰

2. Employment History

Martorano has been associated with the following firms during the following periods:⁶¹

<u>Employer</u>	<u>Period of Employment</u>
ACLP	September 2018 – Present
Bayes Capital LLC	January 2017 – April 2017
Legend Securities, Inc.	July 2007 – November 2016
Electronic Securities Processing (ESP) LLC	June 2003 – July 2007
Electronic Specialist, LLC	June 2003 – February 2004
Bear, Stearns & Co., Inc.	September 1998 – May 2003
Lexington Capital Partners & Co., Inc.	November 1995 – December 1997
First Hanover Securities, Inc.	January 1995 – March 1995
Russo Securities, Inc.	February 1994 – January 1995
First Hanover Securities, Inc.	June 1993 – February 1994
Whale Securities Co., L.P.	August 1992 – May 1993

3. OBA's

Martorano reported that he owns Nday 1, LLC and Nday NJ, LLC, which are non-investment related real estate entities, and he spends no time during trading hours working with those entities. He serves as a FINRA Arbitrator, an activity to which he devotes 1 – 20% of his time.⁶²

⁵⁶ See Exhibit 3 at responses 1 and 2.

⁵⁷ See Email from Firm dated September 10, 2019, attached as Exhibit 22.

⁵⁸ See Exhibit 21 at p. 13.

⁵⁹ *Id.*

⁶⁰ *Id.* Martorano was given credit for the Securities Industry Essentials Examination in October 2018. See also Footnote 17.

⁶¹ See Exhibit 21 at pp. 3-9.

⁶² *Id.* at p. 13.

4. Recent Disciplinary Matters/Regulatory Actions

FINRA is unaware of any disciplinary or regulatory proceedings or customer complaints against Martorano.

V. Proposed Plan of Supervision

ACLP has agreed to the following plan of heightened supervision:⁶³

1. The written supervisory procedures of ACLP will be amended to state that the Firm currently employs four (4) statutory disqualified Registered Representatives and that Orlando Ventura (“Ventura”) will serve as the primary supervisor responsible for Barry Eisenberg (“Eisenberg”). If at any time Ventura is unable to perform these functions, Carl Martorano (“Martorano”), who has been designated as Eisenberg’s alternate supervisor, shall perform these responsibilities;
2. Eisenberg will not act in a supervisory capacity;
3. The Firm must certify, in writing, that any and all references to Eisenberg acting in the capacity as a principal or supervisor have been removed from the Firm’s Written Supervisory Procedures and other Firm records. This written certification will be maintained and kept segregated for ease of review during any FINRA examination;
4. Eisenberg will not maintain discretionary accounts;
5. Eisenberg will be remotely supervised by Ventura from the Firm’s home office, which is located at 17 State Street, New York, New York;⁶⁴
6. Eisenberg will work remotely from his residence located at 818 North Berks Street, Allentown, PA 18104 and will work from the Firm’s home office located at 17 State Street, New York, New York once per week. If Eisenberg does not work from the Firm’s home office located at 17 State Street, New York, New York at least once in each week, the Firm will document why Eisenberg was not physically present at the Firm’s home office during that week.⁶⁵ Documentation will be kept segregated for ease of review during any FINRA examination;
7. Eisenberg may not hold his home office, located at 818 N. Berks Street, Allentown, PA, out to the public as an office, meet with customers at this location, or handle customer funds or securities at this location. All communications made by Eisenberg from this location shall be made through the Firm’s electronic systems.

⁶³ See executed Plan of Supervision, as agreed to by the Firm and Eisenberg, attached as Exhibit 23.

⁶⁴ Eisenberg will be supervised in a remote work environment during the COVID-19/Coronavirus Pandemic in accordance with the guidance set forth in FINRA Regulatory Notice 20-16 *available at* <https://www.finra.org/rules-guidance/notices/20-16>, as well as any future FINRA COVID-19/Coronavirus Pandemic guidance.

⁶⁵ *Id.*

All orders entered from this location shall be entered through Firm electronic systems reviewable at the Firm's home office located at 17 State Street, New York, New York;

8. Ventura will review and pre-approve each customer account, prior to the opening of the account by Eisenberg. Account paperwork will be documented, as approved, with a date and signature. New account documents will be easily accessible if requested during any FINRA examination;
9. Ventura will meet, in person,⁶⁶ with Eisenberg on a monthly basis, to discuss Eisenberg's activities at ACLP, and obtain a written attestation, from Eisenberg, that he has conducted himself in accordance with the terms and conditions as proposed in this plan of supervision. These meetings will take place in the Firm's home office located at 17 State Street, New York, New York. The Compliance Department will maintain a record of Ventura's meetings with Eisenberg and Ventura and Eisenberg will sign the record acknowledging their participation in each meeting. The records of the meetings will be maintained for the period of Eisenberg's disqualification and the record will be segregated for ease of review during any FINRA examination;
10. Ventura will review all written incoming correspondence (including email communications) addressed to or relating to Eisenberg, upon its arrival, and will review all hardcopy outgoing correspondence before it is sent. Ventura will print out, as well as initial, all of Eisenberg's hardcopy correspondence. Ventura will maintain and keep copies of all initialed hardcopy correspondence segregated for ease of review during any FINRA examination. Ventura will produce a report from the Firm's email surveillance system demonstrating review of all incoming and outgoing emails if requested during any FINRA examination;
11. Ventura will be blind copied on 100% of Eisenberg's incoming and outgoing electronic correspondence;
12. With all business-related matters, Eisenberg will only be permitted to use an e-mail account that is held at the Firm, with all e-mails running through the Firm's email system. If Eisenberg were to receive a business-related email communication, in a non-Firm e-mail account, he will immediately inform Ventura, of such email and it will be forwarded it to his ACLP e-mail address. Ventura will document any occurrence of Eisenberg receiving such an e-mail. Documentation will be maintained and kept segregated for ease of review during any FINRA examination;
13. All complaints pertaining to Eisenberg, whether verbal or written, will be immediately referred to Ventura for review, and then to the Compliance

⁶⁶ During the COVID-19/Coronavirus Pandemic these meetings may be conducted via telephone or video conference in accordance with the guidance set forth in FINRA Regulatory Notice 20-16 *available at* <https://www.finra.org/rules-guidance/notices/20-16>, as well as any future FINRA COVID-19/Coronavirus Pandemic guidance.

Department. Ventura will prepare a memorandum to the file as to what measures he took to investigate the merits of the complaint (e.g., contact with the customer) and the resolution of the matter. Documents pertaining to these complaints will be maintained and kept segregated for ease of review during any FINRA examination.

14. Ventura must certify quarterly (March 31st, June 30th, September 30th, and December 31st) in writing to the Compliance Department of ACLP, that he and Eisenberg are in compliance with all of the above conditions of heightened supervision to be accorded Eisenberg;
15. For the duration of Eisenberg's statutory disqualification, the Firm must obtain prior approval from Member Regulation if it wishes to change Eisenberg's primary or alternate supervisors or if the Firm wishes to change any provisions of this plan. The Firm will submit any proposed changes or other requested information under this Plan to FINRA's Statutory Disqualification Group at SDMailbox@finra.org.⁶⁷

VI. Discussion

After careful review of the entire record in this matter, Member Regulation approves ACLP's Application to continue its association with Eisenberg, as a General Securities Representative, subject to the supervisory terms and conditions outlined herein.

In approving the Firm's Application, Member Regulation relies primarily on the principles articulated in *Paul Edward Van Dusen*, 47 S.E.C. 668 (1981). *Van Dusen* stands for the proposition that where the Commission has addressed an individual's misconduct through its administrative process that gave rise to a statutory disqualification, and the time period specified in the order has elapsed, in the absence of new information reflecting adversely on the individual's ability to function in their proposed employment, it is "inconsistent with the remedial purposes of the Securities and Exchange Act of 1934" and unfair to deny an application for re-entry into the securities industry. *Id. Van Dusen* does not require the automatic reentry after a period of time has elapsed. The Commission instructed that other factors must be carefully weighed and considered such as other misconduct in which the applicant may have engaged, the nature and disciplinary history of a prospective employer, and the supervision to be accorded the applicant. *Id.*

The Department recognizes that Eisenberg's disqualifying event involves serious violations of the federal securities laws. However, the Commission accepted Eisenberg's Offer of Settlement and in so doing, barred Eisenberg from acting as a supervisor, with the right to reapply after five years. With this approval, the Firm represents that Eisenberg would be prohibited from acting in the capacity in which he was barred and will only work as a General Securities Representative; he will neither act as a principal nor supervisor.

⁶⁷ ACLP has represented to FINRA that the Firm's office located at 17 State Street, New York, New York is closed as of the date of this plan's execution due to the COVID-19/Coronavirus Pandemic. ACLP will send notification to the SD Group when the Firm's office reopens and allows Eisenberg to resume physically working from the office one day per week.

Further, the Commission concluded in its proceeding that it would not restrict or limit Eisenberg's future securities activities in the capacity in which the Firm is now seeks to continue his association.

When employing a disqualified individual, a firm must prove that it will be able to adequately supervise that individual. To do so, the firm must establish a stringent plan of heightened supervision and show that it will be able to effectively implement such plan. *See Timothy H. Emerson, Jr.*, Exchange Act Rel. No. 60328, 2009 SEC LEXIS 2417 (July 17, 2009). In the instant case, the Firm has agreed to a stringent plan of heightened supervision and proposed supervisors, Ventura and Martorano, who are qualified and experienced principals with limited regulatory histories, to implement such plan. The plan contains provisions to ensure Eisenberg's future compliance with the regulatory mandates necessary for his continued participation in the securities industry. In order to deter him from acting in the prohibited capacity, all references to Eisenberg acting as a principal or supervisor have been removed from the Firm's WSPs and other Firm records. Further, he will not be allowed to act in a supervisory capacity or maintain discretionary accounts. Additionally, the Firm's plan calls for detailed documentation of any deficiencies regarding Eisenberg's supervision; these deficiencies, if any, would be reviewed during FINRA examinations.

Although Eisenberg will be working from an offsite location, at his residence, the plan provides Member Regulation with the assurance that Eisenberg's activities will be closely supervised to avoid future violative conduct. He will be required to have in-person meetings with this primary supervisor and his activities must be conducted solely through Firm electronic systems reviewable at the Firm's home office located at 17 State Street, New York, New York. Moreover, Eisenberg will work from the Firm's home office once per week. Additionally, the Firm will review 100% of Eisenberg's incoming and outgoing electronic correspondence.

In evaluating the Firm's Application, Member Regulation also weighed Eisenberg and ACLP's regulatory and disciplinary history. Eisenberg's history is limited, with the misconduct cited related to his supervisory responsibilities. With this approval, Eisenberg will be approved to only work as a General Securities Representative; he will continue to be prohibited from acting in a supervisory capacity. Member Regulation acknowledges that the Firm has recent regulatory and examination disciplinary history. The Department is approving this application pursuant FINRA Rule 9523(b) which authorizes Member Regulation to accept the continuing association of a disqualified person pursuant to a supervisory plan where the sponsoring member consents to the imposition of a supervision plan.⁶⁸ Eisenberg will be subject to the terms of the supervision plan while employed at ACLP and ACLP consents to be obligated to the Plan for the duration of Eisenberg's employment. Upon this approval, Eisenberg and the Firm will be subject to routine FINRA examinations to ensure its ongoing compliance. FINRA intends to also utilize its surveillance processes to further monitor Eisenberg and the Firm. The Department is further reassured by the experience and qualifications of Eisenberg's supervisors, both with

⁶⁸ See FINRA Rule 9523(b).

limited regulatory histories, coupled with the stringency of the supervision plan, which is tailored specifically to address Eisenberg's misconduct and ensure his future compliance as he continues his participation in the securities industry as a General Securities Representative.

Therefore, in the absence of either new information that provides evidence that Eisenberg has engaged in misconduct since his disqualifying event, or other aggravating facts, the Department approves the Firm's Application based on the principles in *Van Dusen*.

VII. Conclusion

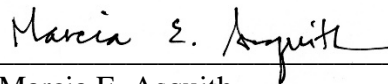
After applying the *Van Dusen* standard to this matter, Member Regulation approves ACLPs's Application to continue its association with Eisenberg for the following reasons:

- The SEC's Order did not limit or bar Eisenberg from acting in the capacity now being proposed;
- There has been no intervening misconduct by Eisenberg since the imposition of the SEC Order, of which Member Regulation is aware;
- ACLP has proposed experienced and qualified supervisors, with limited regulatory histories, who will monitor Eisenberg's work;
- The Plan of Heightened Supervision is stringent and specifically tailored to Eisenberg's misconduct; and,
- Eisenberg and the Firm will be subject to routine FINRA examinations and surveillance processes to ensure the Plan's ongoing compliance.

FINRA states that, to its knowledge: 1) Eisenberg meets all applicable requirements for the proposed employment; and 2) the Firm represents that neither Ventura nor Martorano is related to Eisenberg by blood or marriage. Pursuant to Rule 9523(b)(1), the Firm has submitted an executed letter consenting to a supervisory plan and thus waiving certain rights, as detailed in the Rule.

The Department concludes that it would not constitute unreasonable risk of harm to the market and investors to permit Eisenberg's association with ACLP. In conformity with the provisions of Rule 19h-1, the association of Eisenberg with ACLP will become effective within 30 days of receipt of this Notice by the Commission, unless otherwise notified by the Commission.

On Behalf of FINRA,



Marcia E. Asquith
Executive Vice President & Corporate Secretary

Exhibit List
SD -2210

1. MC-400 Application and related attachments filed by ACLP on July 10, 2018
2. *In the Matter of Barry T. Eisenberg*, Exchange Act Release No. 83564 (June 29, 2018)
3. Letter from Firm dated March 12, 2020
4. CRD Snapshot for Eisenberg
5. Disposition Letter dated February 7, 2019 for the Examination of Barry Eisenberg Examination No. 20180573514
6. CRD Excerpt for ACLP: Types of Business
7. FINRA's Disposition Letter dated December 4, 2019, the Examination Report dated October 28, 2019, and the Firm's response (without attachments) dated November 26, 2019, for Examination No. 20190606446
8. FINRA's Disposition Letter dated May 31, 2019, the Examination Report dated February 27, 2019, and the Firm's response (without attachments) dated April 5, 2019, for Examination No. 20180564833
9. FINRA Examination Disposition Letter dated September 12, 2019, the Examination Report dated May 23, 2019, and the Firm's response dated June 27, 2019, for Examination No. 20180579548
10. FINRA Disposition Letter dated April 15, 2019 for Examination No. 20180586273
11. FINRA Disposition Letter and Examination Report dated January 24, 2019 for Examination No. 20180606343
12. FINRA AWC No. 2016047616401, executed by ACLP on October 18, 2019 and accepted by FINRA October 31, 2019
13. Consent Order, *In the Matter Of Christopher Schoefield Carlin and Alexander Capital, L.P.*, Case No. S-19-0060 dated November 20, 2019; and Statement and Pledge of Anthony Brasuell dated October 23, 2019
14. *Consent Agreement and Final Order*, Case No. SEC-2016-106 dated October 9, 2018
15. Form U6 filed by the State of Montana on October 30, 2018
16. SEC Order, *In the Matter of Alexander Capital, L.P.*, Admin. Proc. File No. 3-18561, Release No. 83562 dated June 29, 2018
17. *In the Matter of the Continued Membership of Alexander Capital, L.P.*, SD-2209, dated July 10, 2019, and letter of acknowledgement from the SEC dated September 10, 2019

18. Email from Firm dated July 21, 2020
19. CRD Excerpt for Ventura
20. Email from Firm dated July 31, 2020
21. CRD Snapshot for Martorano
22. Email from Firm dated September 10, 2019
23. Executed Plan of Supervision