

BEFORE THE NATIONAL ADJUDICATORY COUNCIL  
FINANCIAL INDUSTRY REGULATORY AUTHORITY

In the Matter of the Continued Association of Craig Scott Taddonio	<u>Notice Pursuant to</u> <u>Section 19(d)</u> <u>Securities Exchange Act</u> <u>of 1934</u>
as a	<u>SD-2117</u>
General Securities Representative	March 8, 2017
with	
Meyers Associates, L.P. (n/k/a Windsor Street Capital, LP)	

**I. Introduction**

On May 25, 2016, Meyers Associates, L.P. (n/k/a Windsor Street Capital, LP) (the “Firm”) filed a Membership Continuance Application (the “Application”) with FINRA’s Department of Registration and Disclosure (“RAD”). The Application requests that FINRA permit Craig Taddonio (“Taddonio”), a person subject to a statutory disqualification, to continue to associate with the Firm as a general securities representative. On December 21, 2016, a subcommittee (“Hearing Panel”) of FINRA’s Statutory Disqualification Committee held a hearing on the matter. Taddonio appeared at the hearing, accompanied by his proposed supervisor Anthony Pace (“Pace”). Lorraine Lee-Stepney, Ann-Marie Mason, Esq., Meredith MacVicar, Esq., and Dana Pisanelli, Esq. appeared on behalf of FINRA’s Department of Member Regulation (“Member Regulation”).

As described below, we find that the Firm is not capable of supervising a statutorily disqualified individual such as Taddonio. The Firm’s lengthy and ongoing regulatory and disciplinary history, particularly with respect to supervisory deficiencies and failures, is the antithesis of what we expect from a firm sponsoring a statutorily disqualified individual. For this reason and the reasons set forth herein, we deny the Firm’s Application.<sup>1</sup>

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<sup>1</sup> Pursuant to FINRA Rule 9524(a)(10), the Hearing Panel submitted its written recommendation to the Statutory Disqualification Committee. In turn, the Statutory Disqualification Committee considered the Hearing Panel’s recommendation and presented a written recommendation to the National Adjudicatory Council (“NAC”).

## II. The Statutorily Disqualifying Event

### A. The SEC Order

Taddonio is statutorily disqualified because of an April 12, 2016 Order Instituting Administrative Cease-and-Desist Proceedings, Pursuant to Section 15(b) and 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (the “Order”), entered by the SEC against Taddonio, Craig Scott Capital, LLC (“CSC”) (the firm that Taddonio founded and of which he served as chief executive officer and held an ownership interest of approximately 60%), and Brent M. Porges (CSC’s co-founder and co-owner).<sup>2</sup> The Order found that, among other things, Taddonio willfully aided and abetted and caused CSC’s violation of Section 17(a) of the Securities Exchange Act of 1934 (“Exchange Act”) and Exchange Act Rule 17a-4.<sup>3</sup>

Specifically, the Order found that CSC failed to adopt written policies and procedures reasonably designed to ensure the security and confidentiality of customer records and information, and failed to maintain certain communications related to CSC’s business. The Order also found that, for more than two years, CSC used non-firm email addresses to electronically receive more than 4,000 faxes from customers and other third parties. The information sent to the non-CSC email addresses contained sensitive customer information. Further, Taddonio, Porges, and other CSC employees used their personal email addresses for CSC business, and the firm did not maintain and preserve fax or email correspondence.<sup>4</sup>

The Order required that Taddonio, Porges, and CSC cease and desist from committing or causing any violations and future violations of applicable securities laws. The Order also censured respondents, ordered that Taddonio and Porges each pay a \$25,000 civil penalty, and

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<sup>2</sup> CSC’s FINRA membership was canceled in January 2016 for failing to pay fees. Porges joined the Firm with Taddonio in March 2016, and the Firm filed a Membership Continuance Application for him. Porges, however, left the Firm in August 2016, prior to any determination on the Firm’s Membership Continuance Application.

<sup>3</sup> FINRA’s By-Laws provide that a person is subject to “disqualification,” and thus must seek and obtain FINRA’s approval prior to associating with a member firm, if he is disqualified under Exchange Act Section 3(a)(39). *See* FINRA By-Laws, Article III. Exchange Act Section 3(a)(39) incorporates by reference, among other provisions, Exchange Act Section 15(b)(4)(E). Exchange Act Section 15(b)(4)(E) provides that a person is subject to statutory disqualification if he “[h]as willfully aided, abetted, counseled, commanded, induced, or procured the violation by any other person of any provision of [among other things, the Exchange Act.]”

<sup>4</sup> In the Application, Taddonio states that CSC’s chief compliance officer decided to establish an efax so that all faxes sent to CSC would be stored automatically in email form. He further states that CSC’s subsequent chief compliance officer changed the email address for CSC efares to a non-firm email address. Taddonio also states that he sometimes used non-CSC email addresses to communicate with his chief compliance officer and chief operating officer on matters that he considered to be non-business communications.

ordered that CSC pay a \$100,000 civil penalty. The Order contained a payment schedule for Taddonio and required that he make a \$10,000 payment within 10 days of the Order's entry; a \$5,000 payment on or about July 12, 2016; a \$5,000 payment on or about October 12, 2016; and a \$5,000 payment on or about January 12, 2017. The Order further provided that if Taddonio failed to make a payment pursuant to this schedule, the full amount of the penalty would be immediately due.<sup>5</sup>

The Order, which Taddonio consented to, further provides that:

[S]olely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code . . . the findings in this Order are true and admitted by Respondents Taddonio and Porges, and further, any debt for . . . civil penalty or other amounts due by Respondents under this Order . . . is a debt for the violation by Respondents Taddonio and Porges of the federal securities laws or regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code.

B. Taddonio Fails to Pay the Penalty Imposed by the SEC Order and Files for Bankruptcy

Taddonio, Porges, and CSC did not pay any of the penalties imposed by the Order (and, as of the date of this decision, Taddonio has not paid the penalty imposed by the Order). As a result, in August 2016, the SEC filed an application in federal district court against respondents to require their compliance with the Order and to pay the penalties imposed by the Order (plus interest accrued to date).

On September 9, 2016, Taddonio filed a chapter 7 bankruptcy petition. Taddonio's bankruptcy case is currently pending, and the record shows that, absent a dismissal of Taddonio's bankruptcy case, it is unlikely to conclude prior to May 2017.

In late September 2016, and in response to the failure of Taddonio, CSC, and Porges to respond to the SEC's August 2016 application, the SEC moved in federal district court for default judgment against all three respondents (the "SEC Motion for Default"). Upon the SEC's request in mid-November 2016, and based upon Taddonio's bankruptcy petition, the court adjourned the hearing on the SEC Motion for Default against Taddonio, administratively closed the matter with respect to Taddonio, and permitted the SEC to reopen the matter against him after the bankruptcy stay had been lifted.

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<sup>5</sup> Taddonio testified that at the time he settled this matter, he informed someone at the SEC that he did not have the funds to make payments pursuant to the Order. He further testified that that individual informed him that his failure to make payments pursuant to the Order would not impact his ability to work in the industry.

### III. Procedural Background

From late October 2016 until the morning of the hearing, Taddonio and the Firm made five separate requests to continue or cancel the hearing on the Application. As described below, we find that the Hearing Panel appropriately adjudicated each of these requests.<sup>6</sup>

In late September 2016, the parties agreed to a November 16, 2016 hearing on the Application.<sup>7</sup> On October 27, 2016, Taddonio and the Firm asserted for the first time that any action on the Application, including a hearing, should be stayed pending resolution of Taddonio's bankruptcy case (which he filed on September 9, 2016). *See supra* Part II.B. This argument was properly rejected, as this eligibility proceeding is an action by FINRA to enforce its regulatory powers under the Exchange Act and is not an action to seek, establish, or collect a monetary award, sanction, or judgment against Taddonio. *See* 11 U.S.C. § 362(b)(25)(A) (providing that "the commencement or continuation of an investigation or action by a securities self regulatory organization to enforce such organization's regulatory power" is not stayed by filing a bankruptcy petition);<sup>8</sup> *cf.* 11 U.S.C. § 362(a) (providing that, among other things, "[e]xcept as provided in subsection (b) of this section, a [bankruptcy] petition . . . operates as a stay, applicable to all entities, of" the recovery of a claim arising before the petition, the

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<sup>6</sup> FINRA Rule 9524(a)(5) provides that the Hearing Panel may postpone or adjourn any hearing. "In NASD proceedings, the trier of fact has broad discretion in determining whether to grant a request for a continuance." *Robert J. Prager*, 58 S.E.C. 634, 664 (2005); *Falcon Trading Group, Ltd.*, 52 S.E.C. 554, 560 (1995) (rejecting applicants' argument that hearing panel improperly denied their request to continue hearing and stating that "the trier of fact has broad discretion in determining whether a request for continuance should be granted, based upon the particular facts and circumstances presented"); *see also Mitchell T. Toland*, Exchange Act Release No. 73664, 2014 SEC LEXIS 4724, at \*28 (Nov. 21, 2014) (rejecting argument by disqualified individual that the hearing panel abused its discretion by denying a request to continue a hearing on a Membership Continuance Application).

<sup>7</sup> The Firm initially refused to jointly agree with Member Regulation to any proposed hearing date on the Application, despite Member Regulation's regulatory concerns regarding the Application and its expressed need for a prompt hearing. The Firm finally agreed to the November 16, 2016 hearing date in late September 2016.

<sup>8</sup> "The section 362(b) exceptions to the automatic stay prevent the imposition of a stay *automatically* upon the commencement of the case . . . . In effect, by excepting particular acts or actions from the stay, Congress has shifted the burden of seeking relief to the party seeking the protection against those acts. An injunction may be issued, but only under the normal standards for injunctive relief." *See* Matthew Bender & Co., Inc., *Collier on Bankruptcy* P 362.05 (16th ed. 2016).

enforcement of a judgment obtained prior to the petition, and any effort to assess, recover, or collect a claim against the debtor).<sup>9</sup>

Taddonio and the Firm then sought to postpone the hearing based upon their assertion that, despite the express language of the Order agreed to by Taddonio, the penalty it imposed is a dischargeable debt under federal bankruptcy law and that this issue would be resolved by the bankruptcy court in mid-December 2016. They asserted that if the penalty was discharged, this eligibility proceeding would be rendered moot because Taddonio would not be required to pay the penalty and the sanction imposed by the Order would no longer be in effect. *See* FINRA Rule 9522(b)(2) (providing that for certain disqualifications, including those defined in Exchange Act Section 15(b)(4)(E), a Membership Continuance Application is necessary only if required by Regulatory Notice 09-19); *Regulatory Notice 09-19*, 2009 FINRA LEXIS 52 (Apr. 2009) (providing that for disqualifications arising under Exchange Act Section 15(b)(4)(E) such as the Order, a Membership Continuance Application is not required for an individual to continue to associate with a firm if the sanction is no longer in effect). In the alternative, Taddonio argued that if the penalty were deemed by the bankruptcy court to be non-dischargeable, he would attempt to pay it in full. In both cases, Taddonio and the Firm argued that a brief delay of this proceeding made sense under the circumstances. Member Regulation objected to any continuance of the hearing and asserted that Taddonio and the Firm erroneously represented that the bankruptcy court would resolve the penalty's dischargeability by mid-December 2016. Member Regulation further argued that the express language of the Order indicated that the penalty would not be discharged by Taddonio's bankruptcy.

The Hearing Panel properly denied this request to postpone the hearing. As a factual matter, Taddonio and the Firm did not show that the bankruptcy court would make a determination on the dischargeability of the penalty imposed by the Order by mid-December 2016, and Taddonio had not paid the penalty (and has not paid the penalty). In light of Member Regulation's regulatory concerns surrounding Taddonio, the Firm, and the Application, any continuance on this basis was properly denied. Further, the express language of the Order, which Taddonio consented to, provides that the debt is non-dischargeable under Section 523(a)(19) of the Bankruptcy Code. *See* 11 U.S.C. § 523(a)(19) (providing that a bankruptcy discharge does not discharge an individual debtor from, among other things, any debt based upon a violation of federal securities laws arising prior to the bankruptcy petition from a consent order entered in any federal administrative proceeding).

On November 15, 2016, Taddonio and the Firm requested that the November 16 hearing be postponed because of a conflict with a hearing in his bankruptcy case.<sup>10</sup> The Hearing Panel

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<sup>9</sup> FINRA's Office of General Counsel sent Taddonio's bankruptcy attorney a copy of the ruling denying Taddonio and the Firm's request to stay the hearing on the Application.

<sup>10</sup> The court docket in Taddonio's bankruptcy case indicated, as of October 19, 2016, that the meeting of creditors was scheduled for November 16, 2016. Taddonio and the Firm, however, waited until late in the afternoon of November 15 to inform the Hearing Panel of this matter and Taddonio's inability to attend the November 16 hearing.

granted this request, over Member Regulation's objection, and adjourned the hearing until December 21, 2016.

On December 16, 2016, Taddonio and the Firm asserted that a hearing on the Application was no longer necessary and that the "SD application should be closed." Applicants made this assertion based solely upon a declaration filed by the SEC in support of the SEC Motion for Default, in which the SEC stated that the court had severed and administratively closed any action as to Taddonio on the motion because of his bankruptcy proceeding. Applicants thus suggested that the penalty imposed by the Order had somehow been extinguished. Member Regulation filed an opposition to Taddonio and the Firm's assertion on December 19, 2016. Member Regulation argued that the applicants had not demonstrated that Taddonio had been relieved of paying the penalty imposed by the Order. The Hearing Panel agreed, and properly found that the declaration did not demonstrate that the penalty imposed by the Order had been discharged or that the SEC had otherwise waived payment of the penalty.<sup>11</sup>

On December 21, 2016, approximately one-half hour before the scheduled start of the hearing on the Application, Taddonio filed a letter from his bankruptcy lawyer (which responded to Member Regulation's December 19, 2016 opposition). The letter argued that the SEC is currently unable to pursue its collection of the penalty because of the automatic stay imposed by Taddonio's bankruptcy filing, which demonstrates that the penalty is not exempt from discharge. The letter further argued that the deadline for the SEC to file an objection to discharge of the penalty had recently passed, and that the bankruptcy stay applies to this proceeding because "the sole purpose for Mr. Taddonio's Statutory Disqualification is the nonpayment of the \$25,000 SEC fine, [and] this clearly would fall under the category of a *monetary sanction*." The letter also stated that FINRA would violate the bankruptcy stay if it conducted a hearing on the Application and that the hearing should be postponed.

The Hearing Panel permitted Member Regulation to orally respond to this letter at the hearing and afforded Taddonio further opportunity to comment on the letter. The Hearing Panel took the matter under advisement, but decided to go forward with the hearing on the Application. We find that, under the circumstances, the Hearing Panel properly conducted the hearing. As an initial matter, we note that applicants' last minute request was the latest in a string of requests, all of which generally asserted a similar theme and sought to delay this proceeding. We also note that Taddonio's bankruptcy counsel was on notice since late October 2016 that the Hearing Panel rejected applicants' assertion that the automatic stay prevented FINRA from going forward with a hearing, yet waited until the last possible moment to argue that the bankruptcy stay prevented FINRA from proceeding with the hearing.

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<sup>11</sup> The SEC's request to adjourn the hearing on the SEC Motion for Default stated that it "will continue to advise the Court regarding the status of the matter with respect to Defendant Taddonio's bankruptcy and as to when the Commission expects to seek a hearing date for the Motion."

This gamesmanship aside, we find that resolution of this Application does not involve imposing any penalty, fine, or other monetary sanction or judgment against Taddonio. Indeed, FINRA *cannot* take such actions via an eligibility proceeding. Rather, an eligibility proceeding such as this one involves determining whether Taddonio's continued association with the Firm is in the public interest under the Exchange Act. Conducting a hearing on the Application falls within the exception to stay outlined in Section 362(b)(25) of the Bankruptcy Code. Moreover, at the time of the hearing, it was undisputed that the sanction imposed by the Order remained in effect and that Taddonio had not been relieved of his obligation to pay the penalty. Thus, under FINRA's rules, FINRA's approval of the Application was necessary for Taddonio to continue to associate with the Firm. We reject applicants' suggestion that we are required to wait for a sanction to no longer be in effect in connection with a pending eligibility proceeding, even if the sanction involves a monetary penalty that may be eventually be discharged in a bankruptcy case. This is particularly true where, as here, resolution of the sanction is not imminent and Member Regulation has repeatedly expressed legitimate and on-going regulatory concerns with a Membership Continuance Application and the disqualified individual's continued participation in the industry while that application is pending.<sup>12</sup>

Having found that the Hearing Panel did not abuse its discretion in connection with applicants' myriad requests to continue or cancel the hearing on the Application, we now turn to the merits of the Application.

#### **IV. Factual Background**

##### **A. Taddonio**

##### **1. Employment History and Outside Business Activities**

Taddonio qualified as a general securities representative in March 2004 and as a general securities principal in March 2006. He passed the uniform securities agent state law exam in April 2004. Taddonio joined the Firm in March 2016, where he is currently employed. He was previously associated with four firms.

Taddonio lists two outside business activities on his Uniform Application for Securities Industry Registration or Transfer ("Form U4"): (1) Craig Taddonio & Associates Inc., which he describes as "lease for branch office premises;" and (2) Craig Scott Foundation, which he states is currently inactive. Member Regulation asked Taddonio and the Firm to provide more detail about Craig Taddonio & Associates Inc. The record shows that applicants never responded to Member Regulation's inquiries.

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<sup>12</sup> Taddonio has been permitted to work at the Firm pending resolution of the Application, which is consistent with FINRA's interpretation of Article III, Section 3(c) of FINRA's By-Laws permitting individuals who become statutorily disqualified while they are employed to continue working pending the outcome of the statutory disqualification process. Here, the Order was entered one month after Taddonio joined the Firm.

## 2. Pending Regulatory and Disciplinary Matters<sup>13</sup>

In January 2016, FINRA's Department of Enforcement ("Enforcement") filed a complaint against Taddonio, CSC, and Porges. The complaint alleges that for nearly three years, CSC, Taddonio, and Porges:

[F]ostered a culture of aggressive, excessive trading of customer accounts. By encouraging the firm's registered representatives to use upcoming earnings announcements as a catalyst for recommending hundreds, and in some cases, thousands, of short-term trades in customer accounts, CSC, its owners, and brokers earned more than \$5 million dollars in commissions while customers suffered more than \$9 million dollars in losses in accounts where the annualized turnover rates were as high as over 200 and the annualized cost-to-equity ratios were as high as over 800%.

The complaint further alleges that: (1) CSC engaged in excessive trading and churning; (2) CSC, Taddonio, and Porges failed to establish, maintain, and enforce a reasonable supervisory system, including written supervisory procedures ("WSPs"), to prevent excessive trading and churning; (3) CSC violated FINRA's telemarketing rules; and (4) CSC, Taddonio, and Porges violated FINRA Rules 8210 and 2010 by falsely and repeatedly denying the use or existence of recording devices at CSC or the existence of tape recorded conversations. FINRA's Office of Hearing Officers conducted a hearing on this matter in January and February 2017, and it remains pending.

## 3. Customer Complaints

Taddonio has been the subject of at least 4 customer complaints pursuant to which customers were awarded \$769,147.<sup>14</sup>

In April 2016, a customer alleged that Taddonio and others engaged in churning, made unsuitable recommendations, engaged in unauthorized trading, made negligent misrepresentations and omissions, and failed to supervise. The customer sought \$493,521 in

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<sup>13</sup> We discuss below pending regulatory matters against Taddonio and the Firm, including three litigated matters against the Firm that are currently on appeal. While we are troubled by the pending regulatory and disciplinary actions and the serious allegations against these parties, we find it unnecessary to consider them in denying the Application.

<sup>14</sup> On October 27, 2016, the Firm submitted a document to the Hearing Panel in connection with its request to stay the hearing on the Application while the bankruptcy case was pending. *See supra* Part III. That document indicated that a fifth customer filed a complaint against Taddonio that proceeded to arbitration sometime in 2015. This customer complaint is not disclosed on Taddonio's Form U4.



damages. A FINRA arbitration panel awarded the customer \$252,192, and Taddonio was held jointly and severally liable for the award. Taddonio testified that this award has not been paid as a result of his bankruptcy filing.

In April 2015, a customer alleged breach of contract, breach of duty of good faith, and failure to supervise against Taddonio. The customer sought damages of \$900,000. The customer subsequently withdrew his complaint against Taddonio and the other respondents (including Porges and CSC). The motion to withdraw filed by the customer stated that the respondents were no longer represented by counsel in connection with the matter and their insurance carrier denied coverage for the claim after Taddonio filed for bankruptcy.

In November 2013, a customer alleged generally that various sales practice violations occurred in connection with his account (including unsuitable recommendations, misrepresentations, and excessive trading) and that Taddonio failed to supervise the registered representative assigned to the customer's account. The customer sought \$250,000 in damages. This matter was settled for \$178,500, and FINRA's Central Registration Depository ("CRD"®) indicates that Taddonio did not contribute personally to the settlement. Taddonio testified that CSC's insurance carrier paid this award.

In July 2013, customers alleged generally that various sales practice violations occurred in connection with their account (including unsuitable recommendations, misrepresentations, and excessive trading) and that Taddonio failed to supervise the registered representative assigned to the customers' account. The customers sought \$325,000 in damages. CRD indicates that a FINRA arbitration panel awarded the customers \$338,454, and Taddonio was held jointly and severally liable for the award. Taddonio asserts that he did not contribute to the award, and testified that CSC paid a portion of this award but that a large portion of the award remains unpaid.

#### 4. Bankruptcies and Liens

As described above, Taddonio filed a chapter 7 bankruptcy petition on September 9, 2016.

Taddonio also has disclosed four unsatisfied liens that have been filed against him.<sup>15</sup> In September 2014, New York State filed two tax liens against Taddonio in the amounts of \$48,607 and \$57,735. In February 2015, the IRS filed a tax lien against Taddonio in the amount of \$574,055. Finally, in August 2015, the IRS filed a tax lien against Taddonio in the amount of \$735,353. Taddonio testified that all four tax liens relate to personal income taxes for 2008 and 2010. He explained that New York State and the IRS never received his tax returns for these years, and that his accountant was still working to complete and file these returns and resolve the total amounts owed by Taddonio.

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<sup>15</sup> CRD also shows that three other liens were filed against Taddonio totaling approximately \$39,000, which he satisfied.

5. Undisclosed Lien and Outside Business Activity

Member Regulation also asserts that Taddonio failed to disclose a lien filed against him and Morgan Scott LLC (the holding company for CSC) in August 2015. The record shows that the lien was filed against general intangibles and proceeds. Taddonio testified that he first learned about this lien in the amount of approximately \$120,000 after receiving Member Regulation's recommendation letter in this matter dated November 2, 2016. He updated his Form U4 to reflect this lien on December 20, 2016.

The record further shows that Taddonio did not disclose Morgan Scott LLC on his Form U4 as an outside business activity. Taddonio asserts that this entity was listed on CSC's Uniform Application for Broker-Dealer Registration and that FINRA was aware that its sole function was to hold an interest in CSC. Taddonio testified that FINRA staff told him that he did not have to disclose this matter on his Form U4, and that Morgan Scott LLC conducts no business. CRD shows that Morgan Scott LLC was listed as a direct owner of CSC, and that Taddonio held an ownership interest in Morgan Scott LLC.

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The record shows no other criminal, disciplinary or regulatory proceedings, complaints, or arbitrations against Taddonio.

B. The Firm

The Firm has been a FINRA member since June 1994 and is based in New York City. The Application states that the Firm has six branch offices and two Offices of Supervisory Jurisdiction ("OSJ") and that it employs 12 registered principals and 60 registered representatives, although Pace testified that the Firm has lost personnel since it filed the Application. The Firm engages in a general securities business.<sup>16</sup> The Firm currently employs two other individuals subject to statutory disqualification, although neither individual was required to go through a FINRA eligibility proceeding.<sup>17</sup>

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<sup>16</sup> Member Regulation describes the Firm as being "in what can be best described as a regulatory tailspin" since mid-2016. The record shows that as of the hearing date on the Application, in addition to numerous recent pending disciplinary and regulatory matters, the Firm has not named a chief executive officer since the Firm's former chief executive officer departed in September 2016, and that its acting chief compliance officer has been the subject of two disciplinary actions (which alleged that she failed to supervise, failed to report customer complaints, and permitted an individual to function as a registered representative and permitted another to receive commissions while both were inactive), and one pending state regulatory action alleging that she failed to supervise. Member Regulation further asserts that the acting chief compliance officer failed to disclose three relatively recent judgments and liens.

<sup>17</sup> Member Regulation asserts that the sanctions imposed by the orders rendering these two individuals statutorily disqualified did not involve licensing or registration revocation or suspension and the sanctions are no longer in effect, which obviates the need for a FINRA

1. Pending Regulatory and Disciplinary Actions

The Firm is subject to eight pending regulatory and disciplinary actions, including three litigated matters that resulted in more than \$1 million in fines.

On January 25, 2017, the SEC entered against the Firm and its former chief compliance officer an Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933, Sections 15(b) and 21C of the Securities Exchange Act of 1934, and Section 9(b) of the Investment Company Act of 1940 and Notice of Hearing (the “2017 SEC Order”). The 2017 SEC Order deemed it necessary and appropriate in the public interest that cease-and-desist proceedings be instituted to determine whether the allegations set forth in the 2017 SEC Order are true and if so, what remedial actions are necessary. Specifically, the 2017 SEC Order alleges that, among other things, the Firm willfully violated Sections 5(a) and 5(c) of the Securities Act of 1933 by facilitating the unregistered sale of hundreds of millions of penny stock shares without performing adequate due diligence regarding the sales’ Section 5 compliance. Further, and regarding the same penny stock sales as well as others, the 2017 SEC Order alleges that the Firm repeatedly failed to file suspicious activity reports for suspicious penny stock sale transactions that resulted in proceeds totaling at least \$24.8 million. This matter is pending.

On December 5, 2016, Connecticut’s Department of Banking entered an Order to Cease and Desist, Notice of Intent to Revoke Registration as a Broker-Dealer, Notice of Intent to Fine, and Notice of Right to Hearing against the Firm (the “2016 Connecticut Order”). The 2016 Connecticut Order resulted from the Department of Banking’s examination of the Firm pursuant to a Consent Order entered against the Firm and Bruce Meyers (the founder and indirect majority owner of the Firm) by the Department of Banking on March 24, 2015 (the “2015 Connecticut Order”). The Department of Banking states that during this examination, it “uncovered numerous deficiencies, which, taken as a whole, indicate a systemic culture of noncompliance throughout the firm.” The 2016 Connecticut Order alleged that the Firm: (1) failed to provide books and records when requested; (2) failed to produce true, accurate, and current books and records; (3) violated the 2015 Connecticut Order in several respects; (4) failed to supervise in several areas; (5) made materially misleading statements to the Department of Banking; and (6) sold unregistered securities. The 2016 Connecticut Order required that the Firm cease and desist from violating Connecticut securities laws and affords the Firm an opportunity to contest the allegations. This matter remains pending.

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eligibility proceeding. *See FINRA Regulatory Notice 09-19* (Apr. 2009) (providing that for certain statutory disqualifications, a Membership Continuance Application is not required).

On November 14, 2016, Enforcement issued a Wells Notice to the Firm, which notified it that Enforcement had made a preliminary determination to file disciplinary charges against the Firm for: (1) willfully violating Exchange Act Section 10(b) and Exchange Act Rule 10b-5; (2) willfully violating Exchange Act Section 17(a) and Exchange Act Rules 17a-3 and 17a-4; (3) violating Section 220.8 of Regulation T; and (4) violating FINRA Rules 2010, 2020, 2121, 3110, 3310, 4511, 4530, 5310, and 8210, NASD Rules 1021, 1031, 2440, and 3010, and IM-1000-3 and IM-2440.<sup>18</sup>

On November 11, 2016, a FINRA Hearing Panel found that the Firm failed to supervise individuals in its Chicago office in connection with, among other things, efforts to artificially inflate the reported price and trading volume of a security, in violation of NASD Rule 3010 and FINRA Rule 2010. The Hearing Panel also found that the Firm failed to establish and implement reasonable Anti-Money Laundering (“AML”) policies and procedures, in violation of FINRA Rules 3310 and 2010. For these violations, the Hearing Panel fined the Firm \$350,000 and ordered that it retain an independent consultant. The Hearing Panel also found that the Firm was statutorily disqualified as a result of its misconduct. The Firm has appealed this matter.<sup>19</sup>

On May 9, 2016, the NAC denied a Membership Continuance Application filed by the Firm, which sought permission for Bruce Meyers to continue to associate with the Firm notwithstanding his statutory disqualification as a result of the 2015 Connecticut Order. The NAC found that, among other things, “the Firm’s litany of violations and the repeated occurrence of numerous violations—particularly supervisory violations—demonstrates that the Firm lacks the ability to provide adequate supervision in the normal course of business, let alone stringently supervise a statutorily disqualified individual such as [Bruce] Meyers.” *See In the Matter of the Continued Association of Bruce Meyers with Meyers Associates, L.P.*, SD-2069, slip op. at 29 (FINRA NAC May 9, 2016), available at [http://www.finra.org/sites/default/files/SD-2069-Meyers\\_0.pdf](http://www.finra.org/sites/default/files/SD-2069-Meyers_0.pdf). Bruce Meyers and the Firm have appealed this matter to the SEC.

On April 27, 2016, a FINRA Hearing Panel found that: (1) Bruce Meyers and the Firm violated FINRA’s advertising rules by sending misleading and unbalanced advertising materials regarding an investment banking client of the Firm, in violation of FINRA Rule 2010 and NASD Rule 2210; (2) Bruce Meyers and the Firm failed to establish, maintain, and enforce WSPs, and the Firm failed to establish and maintain a supervisory system and failed to establish, maintain, and enforce written supervisory control procedures, in violation of NASD Rules 3010, 3012, and 2110 and FINRA Rules 3110 and 2010; (3) the Firm created inaccurate books and records, in violation of Exchange Act Section 17(a)(1), Exchange Act Rules 17a-3, 17a-4, and 17a-5, and FINRA Rules 4511 and 2010; and (4) the Firm failed to report 49 customer complaints from 2007 until 2010, in violation of NASD Rules 3070 and 2110 and FINRA Rule 2010. For these

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<sup>18</sup> On this same date, Enforcement issued a Wells Notice to Bruce Meyers, whereby it informed him that it had made a preliminary determination to file disciplinary charges against him for much of the same alleged misconduct.

<sup>19</sup> In its notice of appeal, the Firm states that it is appealing the Hearing Panel’s finding that the Firm is statutorily disqualified and the amount of the fine imposed by the Hearing Panel.

violations, the Hearing Panel barred Bruce Meyers in all principal and supervisory capacities and fined him \$75,000, and fined the Firm \$700,000. Bruce Meyers and the Firm have appealed this decision.

On April 25, 2016, Enforcement issued a Wells Notice to the Firm, which notified it that Enforcement had made a preliminary determination to file disciplinary charges against the Firm and a registered representative for violating FINRA Rules 8210 and 2010 by making false and misleading statements in response to a request for information regarding payments made to the Firm.

In December 2015, Enforcement issued a Wells Notice (the “December 2015 Wells Notice”) to Bruce Meyers and the Firm, which notified them that Enforcement had made a preliminary determination to file disciplinary charges against them for violating: (1) Article V, Section 2(c) of FINRA’s By-Laws and FINRA Rules 1122 and 2010 for willfully failing to disclose on Bruce Meyers’s Form U4 a pending customer arbitration filed in July 2014 and the resulting settlement; (2) NASD Rules 3010 and 3012 and FINRA Rule 2010 for numerous supervisory failures; (3) FINRA Rules 4530 and 2010 for failing to disclose for several years, and failing to timely disclose, written customer complaints; (4) NASD Rule 2440 and FINRA Rule 2010 for charging excessive commissions; and (5) Exchange Act Rule 17a-4 and FINRA Rule 2010 for failing to retain email correspondence.

## 2. Final Regulatory and Disciplinary Actions

The Firm has been the subject of at least 18 final regulatory and disciplinary actions since 2000, and to date has paid approximately \$411,000 in monetary sanctions to settle certain of these matters. This total does not include the \$1.05 million in fines assessed but not yet paid. *See supra* Part IV.B.1.

On November 23, 2016, the Firm filed a Uniform Request for Withdrawal from Broker-Dealer Registration for the Firm’s Vermont broker-dealer registration. The Firm withdrew its Vermont registration in response to notification by the Vermont Department of Financial Regulation that it would seek to revoke, based upon the Firm’s numerous recent disciplinary matters, the Firm’s broker-dealer registration in Vermont (or in the alternative it would permit the Firm to voluntarily withdraw its broker-dealer registration and cease conducting business in the state).

In June 2016, FINRA accepted a Letter of Acceptance, Waiver and Consent (“AWC”) from the Firm for violations of FINRA Rules 2010 and 7450 and NASD Rule 3010. Without admitting or denying the allegations, the Firm consented to findings that it failed to submit reportable order events to the Order Audit Trail System (“OATS”) and failed to have in place a supervisory system reasonably designed to achieve compliance with rules regarding OATS reporting. FINRA censured the Firm and fined it \$15,000.

In December 2015, the Firm and one of its registered representatives entered into a Consent Agreement and Final Order with the Montana Commissioner of Securities. The Firm admitted that it failed to supervise the registered representative’s excessive trading in three

Montana residents' accounts. The Firm and the registered representative were each fined \$5,000, and were held jointly and severally liable for \$28,532 in restitution.

On March 24, 2015, Connecticut's Department of Banking entered the 2015 Connecticut Order against Bruce Meyers and the Firm.<sup>20</sup> The 2015 Connecticut Order, among other things: (1) ordered Bruce Meyers to withdraw his registration as a broker-dealer agent of the Firm and not to reapply for reinstatement for three years; (2) ordered that the Firm ensure that, for so long as Bruce Meyers remained affiliated with the Firm in an unregistered capacity in Connecticut, he refrain from directly supervising or training any broker-dealer agents with respect to securities business transacted in or from Connecticut and receiving any compensation in connection with the offer, sale, or purchase of securities effected in or from Connecticut; (3) suspended for 60 days the Firm's registration as a broker-dealer in Connecticut; (4) ordered that the Firm retain an outside consultant to conduct an audit of the Firm and file a report with the Department of Banking; (5) fined Bruce Meyers and the Firm \$50,000 and ordered that the Firm pay the cost of any examinations by the Department of Banking within 18 months of the order's entry; (6) limited for three years the Firm's securities business in Connecticut to the purchase, sale, and redemption of securities that are: (a) issued by investment companies regulated under the Investment Company of 1940; (b) issued or guaranteed by the United States government, any state, political subdivision of a state, or any agency or instrumentality of the foregoing; (c) exchange-listed options; or (d) listed on the New York Stock Exchange and certain other exchanges, and specifically prohibited the Firm from offering or selling securities listed or traded on the OTC Bulletin Board, OTCQB marketplace, or the OTC Pink marketplace; and (7) required that, for a period of three years, the Firm notify the Department of Banking within seven business days of any reportable disciplinary items initiated against the Firm, its officers, directors, control persons, agents, employees, or representatives. As stated above, the Department of Banking asserts that the Firm violated the terms of the 2015 Connecticut Order. *See supra* Part IV.B.1.

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<sup>20</sup> The 2015 Connecticut Order resolved allegations that the Firm and Bruce Meyers: (1) failed to take any meaningful disciplinary action against a registered representative on heightened supervision who continued to be the subject of numerous customer complaints; (2) failed to notify the Department of Banking of a registered representative's disciplinary action by another state regulator, as previously agreed to; (3) failed to ensure that the Firm's director of operations passed the appropriate licensing examination; (4) failed to reasonably supervise the enforcement of the Firm's WSPs in connection with, among other things, a suspended registered representative's contact with a Connecticut customer; (5) knew or should have known of a commission sharing agreement between two registered representatives used to circumvent registration requirements (and that cash payments made by these representatives to supervisory personnel were not recorded in the Firm's books and records); (6) failed to reasonably supervise the sales of leveraged exchange traded funds, which resulted in unsuitable recommendations, and failed to reasonably supervise a Firm agent with respect to an unauthorized transaction; and (7) Bruce Meyers materially assisted, and willfully aided and abetted, the Firm's failure to provide documents requested by the Department of Banking in a complete and timely manner.

In March 2013, FINRA accepted an AWC from the Firm for violations of MSRB Rules G-8 and G-14. Without admitting or denying the allegations, the Firm consented to findings that it failed to report and correctly report municipal securities transactions. FINRA censured the Firm and fined it \$6,500.

In December 2011, FINRA accepted an Offer of Settlement from the Firm for violations of NASD Rules 4632, 3010, and 2110. Without admitting or denying the allegations, the Firm consented to findings that it failed to timely and correctly report transactions to the FINRA/NASDAQ Trade Reporting Facility and OATS, and failed to establish, maintain, and enforce WSPs to ensure compliance with trade reporting rules. FINRA censured the Firm and fined it \$25,000.

In October 2011, Bruce Meyers and the Firm entered into an Offer of Settlement with FINRA to resolve an appeal of a Hearing Panel decision rendered against them. The Hearing Panel found that the Firm failed to respond and did not respond timely to requests for information, in violation of FINRA Rules 8210 and 2010, and Bruce Meyers failed to supervise Firm personnel to ensure that they completely and timely responded to requests for information, in violation of NASD Rule 3010 and FINRA Rule 2010. Pursuant to the Offer of Settlement, FINRA censured Bruce Meyers and the Firm, fined them \$35,000 (jointly and severally), and suspended Bruce Meyers from acting in any principal or supervisory capacity for four months.

In June 2011, the Firm entered into a consent order with the Connecticut Department of Banking (the “2011 Connecticut Order”). Without admitting or denying the allegations of the Department of Banking, the Firm consented to findings that it employed at least five unregistered agents, effected sales of unregistered securities, failed to disclose to customers that a “handling fee” it charged them included a profit to the Firm that was not based on the costs of handling the transactions, and failed to enforce its WSPs. The Department of Banking fined the Firm \$12,500, ordered that it reimburse customers and pay for the cost of future examinations, and required that it retain an independent consultant to review the Firm’s operations.

In April 2011, a FINRA Hearing Panel found that the Firm violated FINRA Rules 8210 and 2010 by failing to respond to two FINRA requests for information and documents related to a customer complaint. The Hearing Panel fined the Firm \$50,000 and ordered that it pay hearing costs.

In December 2010, Missouri entered a cease and desist order against the Firm for employing a registered representative for transacting business in Missouri without being registered and making untrue statements or omitting to state material facts in connection with the offer or sale of a security. The Firm paid a \$1,000 fine in connection with this matter.<sup>21</sup>

In November 2008, FINRA accepted an AWC from the Firm for violations of Exchange Act Section 17, Exchange Act Rule 17a-4, and NASD Rules 3110, 3010, and 2110. Without admitting or denying the allegations, the Firm consented to findings that it failed to establish and

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<sup>21</sup> CRD indicates that this matter was finalized in 2016.

maintain a system to retain emails for more than 30 days and a record of the supervisory review of Firm emails. FINRA censured the Firm and fined it \$60,000.

In March 2007, FINRA accepted an AWC from the Firm for violations of MSRB Rules G-2, G-3, and G-27. Without admitting or denying the allegations, the Firm consented to findings that it failed to have a municipal securities principal registered at the Firm when it executed municipal securities transactions. FINRA censured the Firm and fined it \$10,000.

In September 2005, FINRA accepted an Offer of Settlement from the Firm for violations of NASD Rule 2110 and IM-10100. Without admitting or denying the allegations, the Firm consented to findings that it failed to comply with its discovery obligations and orders issued by a FINRA arbitration panel by failing to timely produce documents. FINRA censured the Firm and fined it \$25,000. FINRA also ordered the Firm to revise its WSPs to require it to notify all counsel representing the Firm in arbitration proceedings of the Firm's policy to comply with arbitration discovery requirements and to comply with all orders of arbitration panels relating to discovery obligations.

In July 2004, FINRA accepted an AWC from the Firm for violations of NASD Rules 3070 and 2110. Without admitting or denying the allegations, the Firm consented to findings that it conducted a securities business while under suspension for failing to pay arbitration fees, failed to report and timely report customer complaints, and failed to timely report two arbitration settlements. FINRA censured the Firm and fined it \$12,500.

In May 2004, the Firm entered into a stipulation and consent agreement with the State of Florida to settle allegations that it failed to properly register a branch office. The Firm was fined \$15,000.

In May 2003, the State of Iowa fined the Firm \$500 for failing to timely file audited financial statements.

In December 2002, FINRA accepted an AWC from the Firm for violations of Exchange Act Rule 15c1-5 and NASD Rules 2240, 3010, and 2110. Without admitting or denying the allegations, the Firm consented to findings that it failed to disclose to customers the existence of a potential control relationship between the Firm and a public company whose securities the customers purchased. The Firm also consented to findings that it did not consistently enforce its WSPs. FINRA censured the Firm and fined it \$27,500.

In March 2000, FINRA accepted an AWC from Bruce Meyers and the Firm for violations of NASD Rule 3010 and FINRA Rule 2010. Without admitting or denying the allegations, Bruce Meyers and the Firm consented to findings that they failed to enforce the Firm's WSPs and traded ahead of customer limit orders. FINRA censured Bruce Meyers and the



Firm, fined them \$10,000 jointly and severally, separately fined the Firm \$16,000, and ordered that the Firm pay \$5,819 in restitution.<sup>22</sup>

### 3. Examination Results

#### *a. SEC Examination*

In May 2015, in connection with the SEC's examination of the Firm from October 2014 until March 2015, the SEC identified the following deficiencies and weaknesses: (1) failing to conduct a reasonable review prior to executing large-scale liquidations of microcap securities despite numerous red flags or other suspicious characteristics of the transactions; (2) failing to establish and implement an adequate program sufficient to detect and report suspicious or illegal transactions occurring through the Firm, failing to use any exception reports for AML monitoring purposes, and failing to file Suspicious Activity Reports; (3) aiding and abetting unregistered finders' violations of the Exchange Act; (4) failing to evaluate its registered representatives' proposed activities to determine whether they were properly characterized as outside business activities or outside securities activities; (5) failing to establish adequate procedures for email review and the use of mobile devices, and certain Firm personnel using personal email accounts to transact the Firm's securities business; (6) selling securities to customers who lived in Connecticut even though the representative making the sales was not registered there; (7) failing to provide prompt access to records in response to SEC document requests, which "significantly delayed" completion of the examination, and providing on multiple occasions incorrect or incomplete documentation; (8) failing to comply with Regulation S-P; and (9) failing to maintain adequate supervisory procedures to prevent violations of Section 5 of the Securities Act of 1933, failing to adequately implement or enforce its WSPs regarding AML (such that the Firm "facilitated the suspicious trading activity by its inaction"), and failing to supervise the activities of its registered representatives. The Firm responded in writing and denied certain of the findings. Member Regulation asserts that this examination is ongoing.

#### *b. FINRA Examinations*

Member Regulation asserts that each of the Firm's examinations completed by FINRA since 2010 has resulted in some violations being referred to Enforcement for further action, with violations referred from certain examinations resulting in litigated complaints against the Firm

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<sup>22</sup> Further, the record shows that the Firm has been the subject of two recent arbitration awards. In May 2016, a FINRA arbitration panel entered an award against the Firm and an associated person, jointly and severally, for compensatory damages of \$34,218 (plus attorneys' fees and costs). The claimants asserted unsuitable recommendations, failure to supervise, breach of fiduciary duty, and churning. In March 2014, a FINRA arbitration panel entered an award against the Firm for compensatory and punitive damages of \$322,585, attorneys' fees of \$104,400, and interest and costs. The claimants asserted common law fraud, negligent misrepresentations, negligent supervision, breach of fiduciary duty, and breach of contract.

and others resulting in preliminary determinations to recommend disciplinary actions against the Firm.

In October 2016, FINRA commenced a sales practice examination of the Firm. This examination is ongoing.

On June 3, 2016, FINRA issued the Firm a Cautionary Action in connection with the Firm's 2015 examination (and also referred to Enforcement for further investigation suspicious transactions and trading activity). FINRA cited the Firm for failing to accurately report its net capital and failed to adequately implement procedures in its WSPs related to calculating net capital.

On October 8, 2015, FINRA issued the Firm a Cautionary Action in connection with the Firm's 2014 examination (and also referred a number of matters to Enforcement). FINRA cited the Firm for the following: (1) charging excessive commissions and excessively trading a customer account through a registered representative of the Firm; (2) failing to adequately supervise a registered representative to ensure that he complied with his firm-imposed suspension; (3) failing to adequately supervise trading activity in a security; (4) failing to maintain accurate financial books and records; (5) failing to establish procedures and implement an adequate supervisory system related to restricted accounts; (6) failing to supervise customer account activity; (7) failing to maintain complete records of municipal securities transactions; (8) failing to establish adequate procedures for its municipal securities business; (9) failing to maintain adequate procedures and parameters for determining appropriate options levels for customers and establishing an adequate supervisory system for supervising options activity at the Firm; (10) executing transactions prior to approval by a principal; (11) failing to obtain all required new account opening information; (12) failing to comply with Regulation S-P; (13) failing to verify that changes in customers' investment objectives were properly documented; (14) failing to ensure that a registered representative obtained prior written approval for an outside business activity; and (15) failing to ensure that registered representatives timely disclosed outstanding judgments and liens. The Firm responded in writing to the examination report, but FINRA found the response to be inadequate and had to make two follow-up requests to the Firm.

On July 14, 2014, FINRA issued the Firm a Cautionary Action in connection with the Firm's 2013 examination (and also referred to Enforcement exceptions related to the Firm's general supervisory system and books and records failures, some of which ultimately resulted in the December 2015 Wells Notice). FINRA cited the Firm for the following: (1) failing to comply with AML rules because the Firm's independent AML test for 2012 was not comprehensive in addressing the Firm's processes for the Customer Identification Program and suspicious activity reporting; (2) failing to accurately mark order tickets to identify instances where time and price discretion was utilized; (3) failing to comply with its WSPs and regulatory requirements regarding telemarketing; (4) paying earned commissions to registered representatives through unregistered entities; (5) failing to comply with its WSPs regarding email instructions from customers; (6) failing to adhere to guidelines required for restricting accounts; (7) maintaining WSPs that were inadequate to identify instances where registered representatives may open accounts or execute trades in states where they are not registered; (8) failing to

establish adequate procedures to comply with FINRA's suitability rules; (9) failing to enforce its WSPs to ensure that faxes are reviewed by the Firm's compliance department before they are sent by registered representatives; (10) filing inaccurate FOCUS reports by failing to substantiate a balance for non-allowable assets; (11) failing to adhere to its WSPs to ensure that the Firm's operations department retained a copy of address change confirmations sent to customers; (12) accepting cashiers' checks from customers even though the Firm's WSPs do not permit this practice; and (13) failing to maintain accurate registration records regarding a registered representative's business address and identifying on customer account statements a non-registered branch location as the branch office of record. The Firm responded in writing to the examination report.

On October 16, 2013, FINRA issued the Firm a Cautionary Action in connection with the Firm's 2012 examination (and also referred to Enforcement a number of exceptions, some of which, along with the referral from the 2013 examination, ultimately resulted in the December 2015 Wells Notice, and others of which are currently under investigation). FINRA cited the Firm for the following: (1) failing to obtain adequate proof of customer identification for new accounts; (2) failing to properly maintain records of written customer complaints; (3) failing to record on its books and records private securities transactions in which the Firm's registered representatives were approved to engage in and failing to properly supervise such transactions; (4) failing to archive text messaging even though several registered representatives used some form of text messaging related to Firm business; (5) distributing a brochure that contained false, exaggerated, and misleading statements; (6) failing to properly document customer information; (7) failing to establish and implement adequate supervisory procedures for review of correspondence; (8) failing to maintain exception reports, all regulatory reports for three years, and documentation concerning approval of changes to order tickets; (9) failing to provide evidence that issuer information was reviewed prior to recommending purchases in OTC equity securities; (10) failing to provide continuing education for a branch manager; (11) maintaining inadequate WSPs because they did not make provisions for the review of all transactions by a registered principal and maintaining inadequate records regarding such reviews; (12) failing to properly supervise producing managers; (13) failing to implement its WSPs in a branch office; (14) failing to provide documentation of customer confirmation, notification, or follow-up for outgoing wire transmittals; (15) failing to provide documentation regarding a customer's change of address and evidence that changes of customer investment objectives were verified; and (16) failing to supervise the activity of a registered representative in connection with the research he provides to an outside company. The Firm responded in writing to the examination report.

## **V. Taddonio's Proposed Business Activities**

In the Application, the Firm proposes that Taddonio will continue to associate with the Firm as a general securities representative in its home office in New York City. The Firm represents that he will be compensated by commission and will manage client accounts. Taddonio testified that he is currently registered with five state securities regulators and, as a result, only has six or seven customers. Pace testified that the activity in Taddonio's customer accounts has been limited.

## VI. Taddonio's Proposed Supervision

### A. Proposed Supervisors

#### 1. Primary Supervisor Pace

The Firm currently proposes that Taddonio will be supervised primarily by Pace.<sup>23</sup> Pace has been with the Firm since October 2015. CRD shows that he registered as a general securities representative in July 1994 and as a general securities principal in June 2001. Pace also passed the uniform securities agent state law exam in July 1994. He has been associated with eight other firms. Pace testified that he currently supervises 16 other individuals, including one individual on heightened supervision. Pace further testified that he has supervised Taddonio since August or September 2016. In addition to his supervisory duties, which occupy most of his time, Pace has his own customers (who hold approximately 22 accounts at the Firm).

##### *a. Resignations from prior firms*

CRD shows that Pace was permitted to resign from two firms. With respect to the first firm, CRD shows that Pace resigned because he “was given client information and asked to keep it in his office when a broker resigned [and he] allowed the broker to access this information.” Pace testified that he only allowed the broker access to the broker’s personal effects, such as family photos, and that the owner of that firm wrote this on Pace’s Uniform Termination Notice for Securities Industry Registration (“Form U5”) as a way to retaliate against him, and nothing more came of this matter.

With respect to the second firm, CRD shows that Pace’s firm “conducted an internal review regarding a customer complaint and determined to discontinue association with Mr. Pace.”

##### *b. Customer complaints*

Seven customers have filed complaints against Pace. Three of those complaints were either denied by Pace’s firm or closed with no further action.

In June 2013, a customer alleged that Pace, among other things, churned his account, recommended unsuitable securities, breached his fiduciary duties, and engaged in common law fraud. The customer sought \$400,000 in damages. This matter was settled for \$50,000, and Pace contributed \$5,000 to this settlement.

In June 2005, a customer alleged that Pace, among other things, was negligent with respect to his account, failed to execute transactions, and breached his fiduciary duty. The

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<sup>23</sup> Member Regulation asserts that the Firm has made three changes to its supervisory structure since filing the Application, most recently naming Pace as Taddonio’s primary supervisor in August 2016.

customer sought \$71,008 in damages. This matter was settled for \$8,500, and Pace paid the settlement in its entirety.

In November 1997, a customer alleged that Pace failed to execute transactions, made misrepresentations, and churned his account. The customer sought \$35,906 in damages. This matter was settled for \$12,500, and Pace did not contribute personally to the settlement.

In May 1997, a customer alleged that Pace violated the Exchange Act, FINRA's rules, and Florida and Oklahoma securities laws. The customer sought \$5 million in damages. This matter was settled for \$190,000, and Pace did not contribute personally to the settlement.

*c. Failures to disclose*

Member Regulation asserts that Pace failed to disclose two judgments: one filed by AMEX Centurion Bank for \$6,289 entered against him in 1993 and another by Contemporary Designs, Inc. for \$598 entered against him in 1994. Member Regulation also asserts, and Pace admitted, that he failed to disclose a 1993 bankruptcy filing.

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The record shows no other disciplinary or regulatory proceedings, complaints, or arbitrations against Pace.

2. Backup Supervisor Wayne Spence

The Firm proposes that Wayne Spence ("Spence") will serve as Taddonio's alternate supervisor. Spence first registered as a general securities representative in November 1998 and as a general securities principal in October 2010. He also passed the uniform securities agent state law exam in November 1998. Spence has been with the Firm since November 2004, and CRD shows that he was previously associated with four other firms.

CRD includes a November 2004 Form U5 filing from Spence's former firm that states that in the course of his employment Spence "stole certain of the firm's confidential books and records" and "utilized the stolen information to complete account transfer forms and solicit the firm's clients to move their accounts from the firm to his new employer." The firm ultimately concluded that "all parties are in possession of the documents they are entitled to, no violations of firm policies occurred, and all issues between the firm and Spence have been adequately explained or resolved." CRD also lists an open arbitration filed in January 2005, which appears to be related to the above-described issue that has been resolved.

The record shows no other disciplinary or regulatory proceedings, complaints, or arbitrations against Spence.

B. The Firm's Proposed Heightened Supervisory Plan

The Firm submitted the following proposed amended heightened supervisory plan, which Pace testified has been in effect since the summer of 2016:

1. Taddonio shall receive strict supervision as an agent by Pace, who is registered with the Department as [a] General Securities Principal. Taddonio shall not act in a supervisory capacity with respect to himself or any other registered representative transacting securities business.
2. No account will be accepted and approved without complete information and client signature(s). Representatives may not place trades on behalf of the customer before the assignment of an account number by the Firm.
3. All transactions/orders submitted by Taddonio must be PRE-APPROVED by Pace prior to execution. Pre-approved is defined as including, but not limited to, contacting the client via phone (contact info to be provided by Taddonio) to verify [the] transaction. Notes of each conversation are to be kept with the order by Pace.
4. All transactions in Taddonio's personal accounts must be pre-approved by Pace, prior to execution.
5. Taddonio agrees not to engage in any prohibited business practices as that term is defined by the Firm's WSPs.
6. Taddonio will not participate in any outside business activity until he has received express written permission to do so in advance by the Chief Compliance Officer.
7. Taddonio agrees he will not exercise discretionary authority in any customer account or place any discretionary trades in any customer account.
8. Taddonio will immediately report to his supervisor, and the Firm, any complaint or action filed against him or against any securities or investment advisory firm which directly or indirectly involves his employment or affiliation with the securities or investment advisory industry. The term immediately report shall mean within three (3) calendar days of Taddonio being notified of [a] complaint or action. Any additional customer complaints received by Taddonio may result in [a] compliance fine, suspension or termination.
9. Taddonio agrees to comply with and abide by all conditions imposed in this agreement; all state and federal securities laws; and all supervisory procedures of the Firm.
10. Option agreements will be completed, signed by the client(s), and approved by an options principal before option trades are placed.
11. All orders reflecting securities transactions affected by Taddonio will be reviewed and signed by Pace or in his absence, by the backup supervisor (the Firm's New York Home Office). Evidentiary proof of this action will be maintained by the Firm.
12. Limited use of margin will be allowed in all existing and new accounts.
13. The Firm's Compliance Department will conduct a quarterly review of Taddonio's securities transactions activities and of Pace's supervision of Taddonio. Such review shall be memorialized by a memo as to the nature of the

review undertaken and any problems noted. The review reports will be maintained by the Firm.

14. Evidence of compliance with this plan will be maintained at the Longwood Operations Office with a copy provided to the Chief Compliance Officer.

## **VII. Member Regulation's Recommendation**

Member Regulation recommends that the application be denied because, in its view: (1) the Firm's extensive regulatory history demonstrates that it is not capable of supervising a statutorily disqualified individual such as Taddonio; (2) the Firm has experienced continued failures since the May 2016 NAC decision denying the Firm's Membership Continuance Application for Bruce Meyers; (3) Taddonio has a troubling disciplinary history and failures to report disclosable events on his Form U4; (4) the Firm failed to demonstrate that it is capable of providing adequate supervisors and a stringent plan of supervision for Taddonio; and (5) Taddonio's disqualifying event is recent and serious.

## **VIII. Discussion**

In evaluating an application like this, we assess whether the sponsoring firm has demonstrated that the proposed association of the statutorily disqualified individual is in the public interest and does not create an unreasonable risk of harm to the market or investors. *See Continued Ass'n of X*, Redacted Decision No. SD06002, slip op. at 5 (NASD NAC 2006), available at [http://www.finra.org/sites/default/files/NACDecision/p036476\\_0.pdf](http://www.finra.org/sites/default/files/NACDecision/p036476_0.pdf); *see also Frank Kufrovich*, 55 S.E.C. 616, 624 (2002) (holding that FINRA "may deny an application by a firm for association with a statutorily-disqualified individual if it determines that employment under the proposed plan would not be consistent with the public interest and the protection of investors"); FINRA By-Laws, Art. III, Sec. 3(d) (providing that FINRA may approve association of statutorily disqualified person if such approval is consistent with the public interest and the protection of investors).

Factors that bear upon our assessment include the nature and gravity of the statutorily disqualifying misconduct, the time elapsed since its occurrence, the restrictions imposed, the totality of regulatory history, and the potential for future regulatory problems. We also consider whether the sponsoring firm has demonstrated that it understands the need for, and has the capability to provide, adequate supervision over the statutorily disqualified person. The sponsoring firm has the burden of demonstrating that the proposed association is in the public interest despite the disqualification. *See Timothy P. Pedregon, Jr.*, Exchange Act Release No. 61791, 2010 SEC LEXIS 1164, at \*16 & n.17 (Mar. 26, 2010).

After carefully reviewing the entire record in this matter, we find that the Firm has failed to demonstrate that Taddonio's proposed continued association with the Firm is in the public interest. The Firm's lengthy regulatory and disciplinary history, which contains numerous supervisory lapses and other repeat violations, causes us to conclude that the Firm simply cannot stringently supervise a statutorily disqualified individual such as Taddonio. Similarly, we are troubled by Taddonio's regulatory and disciplinary history, as well as the serious nature of the misconduct underlying the recent SEC Order. These factors lead us to conclude that Taddonio's

proposed continued association with the Firm would create an unreasonable risk of harm to investors and the market. Accordingly, we deny the Application for Taddonio to continue to associate with the Firm.

A. The Firm's Troubling Regulatory and Disciplinary History

The Firm's regulatory and disciplinary history is highly troubling and demonstrates, by itself, that the Firm cannot provide the stringent supervision that we expect to be provided to a statutorily disqualified individual such as Taddonio. The Firm has been the subject of at least 18 final regulatory actions since 2000, and to date has paid approximately \$411,000 in monetary sanctions to settle certain of these matters. Of these 18 matters, nine involved supervisory failures, and four matters involved the Firm's failures to produce documents to regulators or claimants in FINRA arbitrations. Other violations occurred repeatedly during this time frame, such as failing to comply with FINRA's reporting obligations, employing unregistered personnel, and failing to make disclosures to customers.

Further, routine examinations by the SEC and FINRA during the past five years have found myriad deficiencies, including repeated supervisory deficiencies. Indeed, recent examinations by the SEC and FINRA identified numerous deficiencies, including: failing in various areas to maintain adequate supervisory procedures and failing to adequately implement or enforce its WSPs; failing to adequately supervise its registered representatives; failing to establish adequate procedures for email review and the use of mobile devices; failing to conduct a reasonable review prior to executing large-scale liquidations of microcap securities despite numerous red flags or other suspicious characteristics of the transactions; and failing to establish and implement an adequate AML program. Both the SEC and FINRA further recently noted the Firm's inadequate and incomplete response to document requests and inadequate and incomplete responses to examination findings (which mirror prior issues). The Firm also recently had entered against it two FINRA arbitration awards involving serious allegations of fraud, misrepresentations, unsuitable recommendations, and supervisory issues. Arbitration panels assessed damages and costs of more than \$461,000.<sup>24</sup>

Simply put, the Firm's track record, particularly with regard to supervisory issues, has been abysmal. The Firm has not provided any reason for us to approve the Application notwithstanding its regulatory and disciplinary history, and we have no confidence that the Firm's compliance with securities laws and regulations will improve in the near future. We therefore agree with Member Regulation that the Firm lacks the ability to stringently supervise a statutorily disqualified individual such as Taddonio. *See Timothy H. Emerson Jr.*, Exchange Act Release No. 60328, 2009 SEC LEXIS 2417, at \*18 (July 17, 2009) (holding that an applicant

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<sup>24</sup> Pace testified that the Firm has had a troubled past, but that he believes that the current chief compliance officer is working hard to improve things at the Firm. While the Hearing Panel found Pace credible on this point, the Firm's lengthy list of misconduct—including recent misconduct—cannot be overcome by any current efforts by the Firm to improve its compliance with securities laws and regulations.



must establish that it will be able to adequately supervise a statutorily disqualified individual); *In the Matter of the Continued Association of Mitchell T. Toland with Hallmark Investments, Inc.*, SD 1812, slip op. at 14-15 (FINRA NAC Feb. 19, 2014), available at [http://www.finra.org/sites/default/files/NACDecision/p448164\\_0.pdf](http://www.finra.org/sites/default/files/NACDecision/p448164_0.pdf) (denying application based upon firm's troubling regulatory and disciplinary history and stating that "[t]he totality of the Firm's disciplinary and regulatory history is disconcerting and supports our conclusion that it is not capable of assuming the additional heavy burden of supervising a statutorily disqualified individual"), *aff'd*, Exchange Act Release No. 73664, 2014 SEC LEXIS 4724 (Nov. 21, 2014); *In the Matter of the Continued Association of X*, Redacted Decision No. SD12001, slip op. (FINRA NAC 2012), available at [http://www.finra.org/sites/default/files/NACDecision/p284390\\_0\\_0.pdf](http://www.finra.org/sites/default/files/NACDecision/p284390_0_0.pdf) (denying application based upon, among other things, Firm's regulatory history and history of supervisory problems).<sup>25</sup>

B. Taddonio's Regulatory and Disciplinary History and the Disqualifying Order

Further supporting our denial of the Application is Taddonio's disciplinary and regulatory history. See *Nicholas S. Savva*, Exchange Act Release No. 72485, 2014 SEC LEXIS 2270, at \*58 (June 26, 2014) ("We also agree with FINRA that Savva's history of at least ten customer complaints and two regulatory matters raised serious concerns about Savva's dealings with customers and his ability to comply with securities laws and regulations."). Taddonio has been the subject of four customer complaints, and it appears that one other complaint was filed against Taddonio, but not disclosed on his Form U4. At the hearing, Taddonio argued that he was only named in these customer complaints because he owned CSC and that he has never had a customer complaint as a result of his management of a customer account. He further argued that certain of CSC's employees were responsible for these complaints. We reject Taddonio's

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<sup>25</sup> As further evidence that the Firm is unable to supervise Taddonio, Member Regulation points to several emails from Firm personnel to Bruce Meyers (or on which Bruce Meyers is copied) as evidence that he was still involved with the Firm from July through September 2016 (contrary to the requirement that, as a statutorily disqualified individual, he not associate with a member firm in any capacity) and that the Firm does not have any procedures or controls to prevent Bruce Meyers from acting on the information sent to him in the emails. While we find these emails troubling, as well as Pace's testimony that he saw Bruce Meyers at the Firm in August or September 2016, the record is not sufficiently developed for us to consider these matters as additional support for denying the Application.

In contrast, we find that the proposed heightened supervisory plan is deficient in several respects and supports denial of the Application. For example, the proposed plan contains numerous provisions applicable to all of the Firm's registered personnel, which indicates that it is essentially a normal supervisory plan. The proposed plan does not contain any provisions concerning any review of Taddonio's correspondence, including email. Nor does it contain any specific provisions designed to ensure that Taddonio makes timely disclosures on his Form U4. Were we otherwise inclined to approve this Application, which we are not, we would have given the Firm an opportunity to cure these deficiencies.

attempt to downplay and to blame others for these matters. The customer complaints made various and serious allegations of wrongdoing, including churning, unsuitable recommendations, failure to supervise, unauthorized trading, and misrepresentations. Customers in these complaints have been awarded more than \$769,000 (the majority of which Taddonio was held jointly and severally liable), although they have only received a small portion of this amount because of Taddonio's and CSC's financial troubles.

We further find that the recency and seriousness of the Order supports denial of the Application. *See id.* at \*57 (holding that FINRA properly considered that the consent order forming the basis of individual's statutory disqualification stemmed from allegations of serious, securities-related misconduct). The Order, entered in April 2016, involved allegations that Taddonio and the firm that he owned and founded, CSC, failed to adopt policies and procedures to protect the security and confidentiality of customer records and information.<sup>26</sup> *Cf. Steven Robert Tomlinson*, Exchange Act Release No. 73825, 2014 SEC LEXIS 4908, at \*39 (Dec. 11, 2014) (stating that "the disclosure of [confidential customer] information jeopardizes the foundation of trust and confidence crucial to any professional advising relationship"), *aff'd*, 637 F. App'x 49 (2d Cir. 2016). The Order also alleged that Taddonio used personal email for CSC business and that the firm failed to maintain and preserve correspondence. *See Edward J. Mawod & Co.*, Exchange Act Release No. 13512, 46 S.E.C. 865, 873 n.39 (1977) (noting that the recordkeeping rules are "a keystone of the surveillance of brokers and dealers by [Commission] staff and by the security industry's self-regulatory bodies") (internal quotations omitted); *see also Elec. Storage of Broker-Dealer Records*, 68 Fed. Reg. 25281, 25282 (May 12, 2003) ("[Recordkeeping] requirements are integral to the Commission's investor protection function because the preserved records are the primary means of monitoring compliance with applicable securities laws."). We find that, under the circumstances, Taddonio has failed to demonstrate that he can fully comply with securities laws and regulations.

## **IX. Conclusion**

Accordingly, we find that it is not in the public interest, and would create an unreasonable risk of harm to the market or investors, for Taddonio to continue to associate with the Firm. We therefore deny the Application.

On Behalf of the National Adjudicatory Council,

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Marcia E. Asquith  
Executive Vice President and Corporate Secretary

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<sup>26</sup> We further reject Taddonio's attempts at the hearing to minimize the language of the Order that he agreed to (such as the provision concerning the dischargeability of the penalty the Order imposed) and downplay its seriousness.