

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 70058 / July 29, 2013**

**INVESTMENT ADVISERS ACT OF 1940**  
**Release No. 3635 / July 29, 2013**

**INVESTMENT COMPANY ACT OF 1940**  
**Release No. 30633 / July 29, 2013**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-15392**

**In the Matter of RONALD S. ROLLINS Respondent.**

**ORDER INSTITUTING ADMINISTRATIVE AND CEASE-AND-DESIST PROCEEDINGS, PURSUANT TO SECTION 15(b) OF THE SECURITIES EXCHANGE ACT OF 1934, SECTIONS 203(f) AND 203(k) OF THE INVESTMENT ADVISERS ACT OF 1940, AND SECTION 9(b) OF THE INVESTMENT COMPANY ACT OF 1940, MAKING FINDINGS, AND IMPOSING REMEDIAL SANCTIONS AND A CEASE-AND-DESIST ORDER**

**I.**

The Securities and Exchange Commission ("Commission") deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 15(b) of the Securities Exchange Act of 1934 ("Exchange Act"), Sections 203(f) and 203(k) of the Investment Advisers Act of 1940 ("Advisers Act"), and Section 9(b) of the Investment Company Act of 1940 ("Investment Company Act") against Ronald S. Rollins ("Respondent").

**II.**

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the "Offer") which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission's jurisdiction over him and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant Section 15(b) of the Securities Exchange Act of 1934, Sections 203(f) and 203(k) of the Investment Advisers Act of 1940, and Section 9(b) of the Investment Company Act of 1940, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order ("Order"), as set forth below.

**III.**

On the basis of this Order and Respondent's Offer, the Commission finds<sup>1</sup> that:

**Summary**

These proceedings arise out of the fraudulent activities of Timothy J. Roth ("Roth") who misappropriated over \$16 million from investment advisory accounts managed by Comprehensive Capital Management, Inc. From June 2003 until February 2011, while an associated person of CCM, Roth transferred mutual fund shares and cash from client accounts at a custodial broker-dealer to a nominee account he controlled in the name of KeyOp Exercise, Inc. ("KeyOp account"). The KeyOp account was held at CCM's clearing broker-dealer which served as the custodian of CCM's clients' assets (the "Custodial Broker-Dealer"). Roth began making unauthorized transfers from these client accounts in May 2004. Roth accomplished this by using falsified transfer authorization forms and by abusing the standing

authority several clients gave him over their advisory accounts. Roth used the stolen shares and cash to fund several companies he owned or controlled and to trade securities on margin in the KeyOp account for his own benefit. While serving as the Chief Compliance Officer for CCM and as Roth's direct supervisor, Rollins failed reasonably to supervise Roth with a view to preventing his violations. Rollins also willfully aided and abetted and caused CCM's violations of the Custody Rule, certain books and records provisions, and certain compliance provisions of the Advisers Act in connection with Roth's misconduct. From June 2003 through February 2011, Rollins failed reasonably to supervise Roth through his failures to reasonably implement CCM's policies governing custody, reviews of transactions, books and records, e-mail, and annual office audits. Through his failures to reasonably implement these policies, Rollins aided and abetted and caused CCM's violation of the Custody Rule of the Advisers Act, the Advisers Act's books and records provisions, and the Advisers Act's rules requiring firms to adopt and implement written policies and procedures reasonably designed to prevent violation of the Advisers Act.

## **Respondent**

1. Ronald S. Rollins, age 62, is a resident of Plainfield, New Jersey. From September 2002 until he was demoted in January 2012, Rollins served as Chief Compliance Officer for CCM and a broker-dealer affiliated with CCM, and was Roth's direct supervisor at all relevant times. Rollins' employment was terminated in July 2012.

## **Other Relevant Persons and Entities**

2. Timothy J. Roth, age 56, is a resident of Stonington, Illinois. Roth became an associated person of CCM in 2002 and a registered representative with a broker-dealer affiliated with CCM in 2005, with offices in Champaign County, Illinois. On February 28, 2011, immediately upon learning of certain of Roth's conduct, CCM terminated its relationship with Roth and reported his conduct to law enforcement authorities. On March 21, 2011, the Commission filed an emergency injunctive action against Roth, alleging that he stole millions from CCM advisory clients from October 2010 through February 2011. See *SEC v. Timothy J. Roth, et al.*, 11-cv-02079 (C.D. Ill.). In October 2011, the U.S. Attorney's Office for the Central District of Illinois charged Roth with one count each of mail fraud and money laundering in connection with the same conduct alleged by the Commission. On October 25, 2011, Roth pled guilty to one count each of mail fraud and money laundering in connection with the conduct described in this Order. On January 31, 2013, Roth was sentenced to 151 months in prison and ordered to pay \$16,151,964 in restitution. See *U.S. v. Timothy J. Roth*, 11-cr-20048 (C.D. Ill.).

3. Comprehensive Capital Management, Inc. ("CCM") is a New Jersey corporation headquartered in Parsippany, New Jersey. CCM has been registered with the Commission as an investment adviser firm since 2004.

4. KeyOp Exercise, Inc. was an Illinois corporation headquartered in Champaign, Illinois. KeyOp Exercise's only purpose was to serve as the name on the KeyOp account at the Custodial Broker-Dealer. Roth used the KeyOp account as a pass-through account for distributions from deferred compensation plans that he advised. Roth controlled the company and its accounts at all times.

## **Background**

5. From 2003 through February 2011, while associated with CCM, Roth advised individual clients and small business employers which offered non-qualified compensation plans to certain high-level employees through what were known as mutual fund option benefit plans ("Plans"). During that period, Roth misappropriated millions of dollars from several clients.

These individuals and Plans were advisory clients of CCM. Cash and securities belonging to the individual and Plan clients were held in accounts at the Custodial Broker-Dealer in the clients' names. Roth advised the employer in selecting which mutual funds to offer. The mutual fund shares were then purchased by the employer and held in its account at the Custodial Broker- Dealer. Generally, when an employee wanted a distribution of funds from the Plan, the employer or a trustee overseeing the Plan would send to Roth's office a signed letter of authorization which granted Roth the authority to order a transfer of a specific number of mutual fund shares from the Plan account to the KeyOp account at the Custodial

Broker-Dealer. Shortly after the shares had been transferred to the KeyOp account, Roth would place an order redeeming the shares and would send the proceeds to the employee or another party for the benefit of the employee.

6. KeyOp was a company Roth incorporated in March 2003 to serve as the name of the nominee account at the Custodial Broker-Dealer used in connection with Roth's business of advising the Plans. In June 2003, Roth opened an account at the Custodial Broker-Dealer in the name of KeyOp with CCM's predecessor firm named as the investment adviser.

7. In June 2003 and at other times thereafter, Roth explained to Rollins what the Plans were, how they operated, how the distribution process was supposed to work, and the purpose of the KeyOp account. Roth explained that the only securities or cash that were supposed to be present in the KeyOp account were client mutual fund shares that were about to be sold and the proceeds from those sales. Roth further explained that neither the securities nor the cash were to remain in the KeyOp account for more than the few days it typically took to transfer the assets to the requesting employee. Roth also explained that no trading was supposed to occur in the KeyOp account other than the sale of client mutual fund shares. Rollins and CCM gave Roth their approval to operate the Plan business in the manner he described.

8. In July 2003, Rollins realized that CCM had custody over client assets held in the KeyOp account, which was in violation of firm policy. In an effort to avoid having custody of these assets, Rollins directed Roth to find a new owner for KeyOp Exercise. Rollins informed Roth that neither Roth nor a family member could be the owner. In response, Roth transferred nominal ownership of KeyOp Exercise to a friend. Rollins never communicated with the new owner and took no steps to learn about the new owner's background, qualifications, or relationship with Roth.

9. Despite the nominal change in ownership, Rollins recognized that the use of the KeyOp account could still present custody-related issues for the firm. Rollins drafted a memo in 2004 in which he wrote that "Compliance will continue to monitor this activity and will focus on this matter during the on-site visit of this location in 2004." As KeyOp's investment adviser, CCM had complete access to all KeyOp account information through the Custodial Broker- Dealer's website at all times. Rollins and CCM, however, never monitored the KeyOp account or the activity within it, despite knowing that the account held CCM client assets.

10. Roth continued to control the activities within the KeyOp account through February 2011, despite the nominal change in ownership. The new owner did not play any role in KeyOp's operation. Roth created a stamp of the nominal owner's signature and used it on checks, letters of authorizations, and wire transfer requests. Roth never told the nominal owner of any distribution requests or sought his authorization before conducting any activity within the account. In 2007, Roth installed his adult children as the KeyOp owners, replacing his friend, but Roth continued to maintain sole control and use of the KeyOp account. Rollins and CCM did not learn about this second change of ownership until February 2011.

11. Between May 2004 and February 2011, Roth stole approximately \$16 million from certain of his KeyOp Exercise Plan clients and individual clients. Roth used the stolen shares and cash to form and support several companies he owned or controlled, to trade in ETFs on margin in the KeyOp account for his own benefit, and to serve as collateral for this margin trading.

12. Roth used several methods to carry out his thefts, all of which made it appear that the fraudulent transfers had been authorized by the client or trustee:

a. starting in at least 2004, Roth convinced several individual clients to sign blank letters of authorization and wire transfer requests, which permitted him to have client securities and cash transferred from the client accounts at the Custodial Broker-Dealer to the KeyOp account and bank accounts Roth controlled. From May 2004 through February 2011, Roth stole more than \$1.85 million from these individual clients.

b. from August 2006 through February 2011, Roth falsely told the trustee for several Plan clients that employees had requested distributions, and presented fabricated letters of authorization,

which the trustee signed. Roth stole more than \$2 million from Plan clients in this way.

c. beginning in 2008, Roth convinced several Plan clients to give Roth standing authority to transfer assets from the Plan clients' accounts to the KeyOp account without a signed letter of authorization. Roth did not tell his clients that his control of the KeyOp account allowed him to use the shares as he wished once they were in the KeyOp account. From late 2008 until February 2011, Roth used his standing authority to steal more than \$12.1 million from these clients.

d. from December 2008 through February 2011, Roth also made at least 16 unauthorized transfers totaling over 1.1 million shares from Plan clients to the KeyOp account. Roth moved these shares to the KeyOp account to serve as collateral to support his margin trading. He returned the shares to the clients' accounts within two months. When a third-party record administrator e-mailed Roth in 2010 and questioned their legitimacy, Roth claimed the transfers were mistakes.

### **CCM Had Custody of Client Assets**

13. From 2003 through February 2011, CCM had custody of client assets when the assets were held in the KeyOp account at the Custodial Broker-Dealer because Roth held or had access to client accounts through his control over the KeyOp Exercise entity and the KeyOp account. From December 2008 through February 2011, CCM also had custody of several clients' assets, which were held by the Custodial Broker-Dealer because of the standing authority Roth had over these clients' accounts.

14. From 2003 through February 2011, when CCM's clients' assets were held in the KeyOp account at the Custodial Broker-Dealer, CCM failed to maintain client assets with a qualified custodian either (1) in a separate account for each client under that client's name; or (2) in accounts that contained only the client's funds and securities under the adviser's name as agent or trustee for the client. The KeyOp account at the Custodial Broker-Dealer was neither an account in the client's name nor an account under CCM's name as agent or trustee for the clients. Second, CCM also failed to ensure that clients whose assets were held in the KeyOp account at the Custodial Broker-Dealer received a copy of the KeyOp account statements from the Custodial Broker-Dealer.<sup>2</sup> Prior to March 2010, it alternatively would have been permissible for CCM to send the account statements, provided CCM also arranged for the account to undergo an annual surprise examination. Third, from 2003 through February 2011, CCM did not arrange for surprise examinations of the KeyOp account at the Custodial Broker-Dealer, and from March 2010 through February 2011, CCM did not arrange for surprise examinations of those client accounts over which Roth (and thus CCM) had standing authority.

### **CCM and Rollins Failed Reasonably to Supervise Roth**

15. Under CCM's written policies and procedures, Rollins was responsible for implementing CCM's policy prohibiting the firm from having custody of client assets. With respect to Roth, Rollins failed to reasonably implement this prohibition. Rollins knew that client assets were transferred to the KeyOp account at the Custodial Broker-Dealer as part of Roth's advisory business. However, after 2003, Rollins took no action to ensure, consistent with CCM's policies, that neither Roth nor CCM held, directly or indirectly, client assets, or had access to them through the KeyOp account. Likewise, Rollins took no action to determine whether Roth had standing authority over client accounts at the Custodial Broker-Dealer. Roth continued to hold or had access to client assets, which was in violation of CCM's custody policy. Because of Rollins' failure to reasonably implement CCM's policies, CCM continued to retain custody of client assets held at the Custodial Broker Dealer. CCM did not arrange for Roth's clients to receive copies of the KeyOp account statements nor arranged for annual surprise examinations of the KeyOp account or client accounts.

16. The CCM Investment Adviser Policies and Procedures Manual stated that Rollins was responsible for developing, adopting, implementing, and enforcing all of the firms' supervisory and compliance policies and procedures. Rollins was also the direct supervisor for all of the registered personnel, including Roth, from 2002 through at least February 2011.

17. Failure to implement custody policy. From March 2003 through February 2011, CCM and Rollins failed to reasonably implement CCM's custody policy that prohibited the firm from having custody of

client assets by permitting client assets to be held in the KeyOp account at the Custodial Broker-Dealer. Rollins understood the central role the KeyOp account played in Roth's advising of his Plan clients. As such, Rollins knew that client assets were transferred to the KeyOp account at the Custodial Broker-Dealer and sold, with the proceeds remaining in the account until transferred to the proper recipient.

18. Rollins, on behalf of CCM, knew or should have known that Roth held or had access to client assets in the KeyOp account at the Custodial Broker-Dealer and the client assets within it. Rollins took no steps to ensure, consistent with CCM's policies, that neither Roth nor CCM held, directly or indirectly, client assets, or had access to them through the KeyOp account. Had Rollins taken such steps, he could have found substantial evidence that Roth was in control of the account and client assets in violation of firm policy. Evidence of Roth's control included:

1) Roth's use of a stamp of the nominal owner's signatures; 2) the lack of communication between Roth and the nominal owner about KeyOp, client accounts, or distribution requests; 3) Roth's failure to obtain the nominal owner's written authorization to transfer funds from the KeyOp account; 4) CCM's continued status as the investment adviser of record for the KeyOp account at the Custodial Broker-Dealer; and 5) Roth's children becoming the KeyOp owners in 2007.

19. From approximately December 2008 through February 2011, CCM and Rollins also failed to reasonably implement CCM's custody policy which prohibited the firm's advisers, including Roth, from having standing authority over client accounts. Rollins failed to investigate whether the firm's advisers, including Roth, had been granted such authority. Instead, Rollins relied on the advisers to self-report.

20. Had CCM and Rollins reasonably implemented CCM's custody policy, they could have prevented or detected Roth's fraud.

21. Failure to implement policy requiring daily review of transactions. CCM and Rollins failed to reasonably implement CCM's policy requiring the daily review of transactions in client accounts. Rollins was responsible for these reviews. Rollins only reviewed purchases and sales within accounts. He did not review transfers of assets into or out of CCM's client accounts, including those of Roth's victims with KeyOp.

22. If Rollins had reviewed such transfers from client accounts to a KeyOp account, he could have discovered at least 15 transfers of cash totaling approximately \$1.1 million between 2004 and 2008 from the accounts of Roth's individual clients to the KeyOp account at the Custodial Broker-Dealer and bank accounts in the name of KeyOp. Rollins knew or should have known that there was no legitimate reason for Roth's individual clients to transfer cash or securities to the KeyOp account. In addition, Rollins could have discovered that mutual fund shares were transferred back and forth between the client accounts and the KeyOp account. Such transfers could have reasonably caused Rollins to take additional steps to determine the legitimacy of such back-and-forth transfers.

23. Rollins also failed to review all transactions in the KeyOp account at the Custodial Broker-Dealer, including transfers from the account, on a daily basis.

24. If Rollins had reviewed the transactions in the KeyOp account at the Custodial Broker-Dealer starting in June 2003, he could have discovered numerous suspicious transactions, including: 1) significant securities trading on margin throughout 2009 and 2010 in the KeyOp account; 2) the transfer of approximately \$14 million worth of mutual fund shares from Plan client accounts to the KeyOp account from 2006 through 2011 in which there were no corresponding transfers of money out of the KeyOp account to the proper recipients; 3) the transfer of \$733,000 from 2007 through February 2011 from the KeyOp account to a bank account in the name of a Roth-owned company which he had previously disclosed as an outside business activity; 4) transfers totaling approximately \$1.1 million from individual clients' accounts to the KeyOp account; and 5) the transfers of approximately 1.1 million mutual fund shares from Plan clients to KeyOp from 2008 through February 2011 in which the shares were returned to the client accounts within two months. All of these transactions involved the misappropriation of client assets by Roth.

25. Had CCM and Rollins reasonably implemented CCM's daily review of transactions policy and procedures, they could have prevented or detected Roth's fraud.

26. Failure to implement e-mail policy. CCM and Rollins failed to reasonably implement the firm's written policies and procedures requiring that associated personnel only use their CCM-issued e-mail address for e-mail communications related to firm and client matters. Specifically, CCM and Rollins permitted Roth to use non-CCM e-mail accounts for such communications. Rollins knew that Roth used non-CCM e-mail accounts after 2006 and rarely used his CCM e-mail account. Rollins frequently sent e-mails to Roth's non-CCM e-mail accounts about Roth's clients and other firm business.

27. CCM and Rollins failed to reasonably implement CCM's written policy requiring that e-mails relating to firm and client matters be maintained and monitored. Rollins permitted Roth and other associated personnel to use non-CCM e-mail accounts if they agreed to forward the required e-mails to their CCM e-mail account. Roth did not forward any e-mails to his CCM account after 2007. As a result, the firm did not have possession of all of Roth's e-mails that it was supposed to maintain or monitor.

28. CCM's and Rollins' failure to reasonably implement the firm's e-mail policy allowed Roth to communicate about client matters via e-mail with virtually no oversight for over three years. Had Rollins properly retained and monitored Roth's e-mails, he could have discovered e-mails showing Roth's control of the KeyOp account and other e-mails questioning the legitimacy of transfers that Roth had ordered.

29. Had CCM and Rollins reasonably implemented CCM's e-mail policy and procedures, they could have prevented or detected Roth's fraud.

30. Failure to implement office audit policies and procedures. CCM and Rollins failed to reasonably implement policies and procedures for conducting audits of offices of associated persons ("compliance audits"). CCM's written policies and procedures required annual audits of associated personnel's offices. Between at least 2002 and 2008, CCM assigned Rollins the overall responsibility for administering the compliance audits. With respect to Roth's office, CCM and Rollins failed to reasonably implement the procedures for annual compliance audits.

31. From at least 2004 through January 2010, the compliance audits of Roth's office were perfunctory and were not designed to prevent or detect fraud. There was no meaningful discussion or review of Roth's business advising the Plans or of his outside business activities.

There was no review of transactions in Roth's client accounts, including the KeyOp account.

There were no surprise compliance audits. No one audited Roth's office in 2009. Roth was last audited in January 2010. Thus, Roth was audited only once between December 2008 through his termination in February 2011.

32. Had CCM and Rollins reasonably implemented CCM's office compliance audit policy and procedures, they could have prevented or detected Roth's fraud.

## **Violations**

33. As a result of the conduct described above, Rollins failed reasonably to supervise Roth, within the meaning of Section 203(e)(6) of the Advisers Act, with a view to preventing Roth's violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder and Roth's aiding and abetting violations of Sections 206(1), 206(2), and 206(4) of the Advisers Act and Rule 206(4)-2 thereunder.

34. As a result of the conduct described above, Rollins willfully aided and abetted and caused CCM's violations of Section 206(4) of the Advisers Act, which prohibits fraudulent conduct by an investment adviser, and Rule 206(4)-2 thereunder, which, among other things, imposes on investment advisers that have custody of client funds or securities certain requirements with respect to the preparation and dissemination of client account statements and surprise annual examinations.

35. As a result of the conduct described above, Rollins willfully aided and abetted and caused CCM's violations of Section 206(4) of the Advisers Act and Rule 206(4)-7 thereunder, which requires registered investment advisers to adopt and implement written policies and procedures reasonably designed to

prevent violation of the Advisers Act.

36. As a result of the conduct described above, Rollins willfully aided and abetted and caused CCM's violations of Section 204 of the Advisers Act and Rules 204-2(a)(7) and 204-2(e)(1) thereunder. Section 204 of the Advisers Act requires every registered investment adviser to make and keep such reports as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors. Such records are subject to periodic examinations by the Commission. Rule 204-2 promulgated thereunder requires that an investment adviser "make and keep, true, accurate and current" books and records relating to its advisory business. Rule 204-2(a)(7) generally requires a registered adviser to maintain records relating to "(i) any recommendation made or proposed to be made and any advice given or proposed to be given, (ii) any receipt, disbursement or delivery of funds or securities, or (iii) the placing or execution of any order to purchase or sell any security." Rule 204-2(e)(1) generally requires records required by Rule 204-2(a) to be "maintained and preserved in an easily accessible place for a period of not less than five years from the end of the fiscal year during which the last entry was made on such records, the first two years in an appropriate office of the investment adviser."

### **Undertakings**

37. In connection with this public administrative proceeding and any related judicial or administrative proceedings or investigation commenced by the Commission or to which the Commission is a party, Rollins: (i) agrees to appear and be interviewed by Commission staff at such times and places as the staff requests upon reasonable notice; (ii) will accept service by mail or facsimile transmission of notices or subpoenas issued by the Commission for documents or testimony at depositions, hearings, or trials, or in connection with any related investigation by Commission staff; (iii) appoints Rollins' undersigned attorney as agent to receive service of such notices and subpoenas; (iv) with respect to such notices and subpoenas, waives the territorial limits on service contained in Rule 45 of the Federal Rules of Civil Procedure and any applicable local rules, provided that the party requesting the testimony reimburses Rollins' travel, lodging, and subsistence expenses at the then-prevailing U.S. Government per diem rates; and v) consents to personal jurisdiction over him in any United States District Court or administrative court for the purposes of enforcing any such subpoena.

### **Civil Penalties**

38. Rollins has submitted sworn Statements of Financial Condition dated April 3, 2013 and April 24, 2013 and other evidence and has asserted his inability to pay a civil penalty.

### **IV.**

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondent Rollins's Offer.

Accordingly, pursuant to Section 15(b) of the Exchange Act, Sections 203(f) and 203(k) of the Advisers Act, and Section 9(b) of the Investment Company Act, it is hereby ORDERED that:

A. Respondent Rollins cease and desist from committing or causing any violations and any future violations of Sections 204 and 206(4) of the Advisers Act and Rules 204-2(a)(7), 204-2(e)(1), 206(4)-2, and 206(4)-7 thereunder.

B. Respondent Rollins be, and hereby is:

1. suspended from associating with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization for a period of twelve (12) months, effective on the second Monday following the entry this Order;
2. prohibited from serving or acting as an employee, officer, director, member of an advisory board, investment adviser or depositor of, or principal underwriter for, a registered investment company

or affiliated person of such investment adviser, depositor, or principal underwriter for a period of twelve (12) months, effective on the second Monday following the entry this Order;

3. suspended from participating in any offering of a penny stock, including: acting as a promoter, finder, consultant, agent or other person who engages in activities with a broker, dealer or issuer for purposes of the issuance or trading in any penny stock, or inducing or attempting to induce the purchase or sale of any penny stock for a period of twelve (12) months, effective on the second Monday following the entry of this Order; and
4. barred from associating in a supervisory capacity with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization, effective on the second Monday following the entry of this Order, with the right to reapply for association after three years.

Any reapplication for association by the Respondent will be subject to the applicable laws and regulations governing the reentry process, and reentry may be conditioned upon a number of factors, including, but not limited to, the satisfaction of any or all of the following: (a) any disgorgement ordered against the Respondent, whether or not the Commission has fully or partially waived payment of such disgorgement; (b) any arbitration award related to the conduct that served as the basis for the Commission order; (c) any self-regulatory organization arbitration award to a customer, whether or not related to the conduct that served as the basis for the Commission order; and (d) any restitution order by a self-regulatory organization, whether or not related to the conduct that served as the basis for the Commission order.

C. Based upon Respondent's sworn representations in his Statement of Financial Condition dated April 3, 2013 and April 24, 2013 and other evidence submitted to the Commission, the Commission is not imposing a civil penalty against Respondent.

D. The Division of Enforcement may, at any time following the entry of this Order, petition the Commission to: (1) reopen this matter to consider whether Respondent provided accurate and complete financial information at the time such representations were made; and (2) seek an order directing payment of the maximum civil penalty allowable under the law. No other issue shall be considered in connection with this petition other than whether the financial information provided by Respondent was fraudulent, misleading, inaccurate, or incomplete in any material respect. Respondent may not, by way of defense to any such petition: (1) contest the findings in this Order; (2) assert that payment of a penalty should not be ordered; (3) contest the imposition of the maximum penalty allowable under the law; or (4) assert any defense to liability or remedy, including, but not limited to, any statute of limitations defense.

E. Respondent shall comply with the undertakings enumerated in Section III above.

By the Commission.

Elizabeth M. Murphy  
Secretary

#### **Footnotes**

1 The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

2 The Custodial Broker-Dealer sent account statements to these clients from 2003 through February 2011.