FINANCIAL INDUSTRY REGULATORY AUTHORITY
OFFICE OF HEARING OFFICERS

DEPARTMENT OF ENFORCEMENT, Complainant, v. Alex Etter [CRD No. 2981742], Lucas Lichtman [CRD No. 5542092], Richard Lim [CRD No. 4949289], Richard Lee [CRD No. 2768039], and Alain Florestan [CRD No. 2818942], Respondents	DISCIPLINARY PROCEEDING NO. 2014039091903 Hearing Officer – LOM Date: September 23, 2016

ORDER ACCEPTING OFFER OF SETTLEMENT BY LUCAS LICHTMAN

INTRODUCTION

Disciplinary Proceeding No. 2014039091903 was filed on December 31, 2015, by the Department of Enforcement of the Financial Industry Regulatory Authority (FINRA) (Complainant). Respondent Lucas Lichtman submitted an Offer of Settlement (Offer) to Complainant dated September 19, 2016. Pursuant to FINRA Rule 9270(e), the Complainant and the National Adjudicatory Council (NAC), a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs (ODA) have accepted the uncontested Offer. Accordingly, this Order now is issued pursuant to FINRA Rule 9270(e)(3). The findings, conclusions and sanctions set forth

in this Order are those stated in the Offer as accepted by the Complainant and approved by the NAC.

Under the terms of the Offer, Respondent Lichtman has consented, without admitting or denying the allegations of the Complaint (as amended by the Offer of Settlement), and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of FINRA, or to which FINRA is a party, to the entry of findings and violations consistent with the allegations of the Complaint (as amended by the Offer of Settlement), and to the imposition of the sanctions set forth below, and fully understands that this Order will become part of Respondent Lichtman's permanent disciplinary record and may be considered in any future actions brought by FINRA.

BACKGROUND

Lichtman began his career in the securities industry in June 2008. He was associated with two FINRA member firms before associating with CISC on April 15, 2011, the date on which CISC filed a Form U4 for Lichtman. Lichtman was located at the Etter Group Corporation ("EGC"). He has obtained Series 7 and 63 licenses. On May 16, 2016, a Form U5 was filed terminating Lichtman's association with CISC and registration with FINRA.

Under Article V of the FINRA By-Laws, FINRA possesses jurisdiction over Lichtman because: (a) he was associated with a FINRA member and registered with FINRA at the time the Complaint was filed; and (b) the Complaint charges him with misconduct committed while he was associated with a FINRA member and registered with FINRA.

FINDINGS AND CONCLUSIONS

The findings herein are pursuant to Respondent Lichtman's Offer of Settlement and are not binding on any other person or entity named as a respondent in this or any other proceeding. It has been determined that the Offer be accepted and that findings be made as follows:

ALLEGED ACTS OR PRACTICES AND VIOLATIONS BY RESPONDENT LICHTMAN

As alleged in the Complaint (as amended herein), Respondent Lichtman engaged in the following acts, or failed to act as follows:

1. For approximately four and a half years, CISC, by and through one or more of its registered representatives and principals, put profits before customers, growth before compliance, and subterfuge before transparency. CISC's compliance failures during this time period led to serious sales practice, supervisory, and reporting violations at its home office and multiple branches.

2. Starting in 2011, CISC began rapidly expanding the number of OSJs and registered representatives at the firm. Many of the new representatives focused their business on speculative equity trading, often for international customers. CISC's growth and expansion into these business lines was a systemic shift in the firm's historical business model, which traditionally focused on moderate or conservative equity (stock) trading for domestic individuals.

3. From December 1, 2010 through July 31, 2014 (the "Relevant Period"), CISC, by and through one or more of its principals, Greg Caldwell ("Caldwell"), Lennie Freiman ("Freiman"), and Paul Jacobs ("Jacobs") (from March 2014), failed to develop, maintain and enforce a supervisory system, including written supervisory procedures, reasonably tailored to its business model, allowing many of its registered representatives to recommend an unsuitable active trading investment strategy that the representatives did not understand and which caused significant financial losses to customers while generating substantial profits for the Respondents.[1] Other representatives were allowed to engage in trading with discretion without authorization, and trading which exceeded the benchmarks for excessive trading and churning

[1] CISC, Caldwell, Freiman, and Jacobs resolved the matters against them with Offers of Settlement.

without any meaningful supervision of this activity. CISC and its principals were aware of virtually all of this misconduct, yet they took no meaningful steps to curtail and supervise it because doing so would reduce the commissions and fees being generated from their customers. Not surprisingly, CISC and its representatives received numerous customer complaints that went unreported to FINRA.

4. Specifically, during the Relevant Period, CISC's formerly registered representatives, Rasheed (Richard) Adams,[2] James Starks (a/k/a Jim Star),[3] Ricardo Francois,[4] and Respondents Alain Florestan, Alex Etter ("Etter"), Richard Lee ("Lee"), Lucas Lichtman and Richard Lim ("Lim"), recommended that their customers engage in an unsuitable active trading investment strategy, despite the fact these representatives failed to understand the risks of the investment strategy being recommended, or the impact the staggering commissions and fees generated by this active trading investment strategy would have on their customers' accounts. These representatives had no reasonable basis to recommend such a strategy to their customers. As a result of the recommendation of an unsuitable active investment trading strategy, 15 customer accounts paid over $1 million in commissions and fees. The annualized cost-to-equity ratios for the accounts engaged in this unsuitable active investment strategy ranged from 17.98% to 121.05% and had annualized turnover rates of 3.61 to 29.84. As a result of this misconduct, Respondent Lichtman violated FINRA Rules 2111 and 2010 (First Cause of Action).

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[2] Adams was barred from associating with any FINRA member in any capacity pursuant to AWC No. 2015045911001 (August 6, 2015).

[3] Starks was barred from associating with any FINRA member in any capacity pursuant to FINRA Rule 9552 in Matter No. 2015043464601 (October 30, 2015).

[4] Francois was barred from associating with any FINRA member in any capacity pursuant to FINRA Rule 9552 in Matter No. 2015043464602 (October 30, 2015)

CISC's Rapid Business Expansion in 2011 and 2012

5. CISC was a small regional broker dealer with four offices and approximately 20 representatives. In early 2011, CISC began to rapidly expand– more than doubling the number of associated persons (from 20 to 40) and branches (from 4 to 8) by the end of 2012.

6. The newly associated individuals' primary business lines included the solicitation of investors via cold calling, the solicitation of investors outside of the United States, and speculative equity trading, all of which were new business lines at CISC.

7. CISC's growth and expansion into new business lines was a systemic shift in the firm's historical business model, which traditionally focused on moderate or conservative equity (stock) trading for domestic individuals.

8. Despite this shift in business models, CISC's supervisory systems and procedures did not evolve with the increased risks associated with the firm's new methods of doing business.

9. As a result of the gap between CISC's supervisory systems and procedures and its business, registered representatives at four of the firm's new branches, including the branch where Lichtman was associated, were allowed to make unsuitable active trading investment strategy recommendations to their clients and engage in trading that exceeded the benchmarks for excessive trading and churning in client accounts.

The EGC Representatives Recommended an Unsuitable Active Investment Trading Strategy

10. In April 2011, EGC became a branch of CISC. Etter owned the EGC branch. He also was a joint representative on most of the customer accounts in that branch.

11. During the Relevant Period, EGC employed four registered representatives, including Etter, Lichtman, Lim and Lee, each of whom was an independent contractor.[5] The

[5] Etter, Lee, Lichtman and Lim are collectively referred to herein as "EGC."

EGC representatives were paid only a commission, and they were only compensated when they executed securities transactions in their customers' accounts.

12. EGC representatives Etter, Lichtman, Lim, and Lee generated new customers by cold calling individuals. EGC mainly targeted individuals who resided overseas or in Canada.

13. Etter, Lichtman, Lim, and Lee generally targeted customers who would agree to speculation as their investment objective. They believed that once a customer selected "speculation," *any* investment strategy or trade was suitable. They considered the funds in their customer's accounts to be "gambling money" that the customer could afford to lose.

14. The EGC representatives recommended an active trading investment strategy for their customers. The active trading investment strategy employed at EGC involved Etter, Lichtman, Lim, and Lee purporting to identify securities with a short term catalyst event and then purchasing those securities in their customers' accounts. They would then wait for the catalyst event to occur – or sometimes decide that it would not occur -- before selling those securities. They would then invest the proceeds from that sale into another security with a purported catalyst that was expected to occur in the next three to six months, and repeat this strategy throughout the life of the customer's account. Etter characterized EGC's "entire business model" as "impulsive buying."

15. From July 2012 through July 2014, Etter, Lichtman, Lim and Lee recommended that their customers engage in an unsuitable active trading investment strategy. These accounts bought and sold multiple single securities each month.

16. Etter, Lichtman, Lim and Lee charged their customers 4% to 4.5% commission on *each* buy and sell trade that they recommended as part of their active trading investment strategy.

17. They did not inform the customer whether the commissions charged on the purchase and sale of a security negated any profit or gain on the trade or caused the customer to experience a net loss on the transaction even where the security was sold for a higher price than the purchase price. The only disclosure of commission to the customer was the dollar amount reflected on the confirmation for each trade.

18. As a result of the active trading investment strategy employed by the EGC Group during the Relevant Period, the annualized turnover rates for eight customer accounts ranged from 3.61 to 10, and the annualized cost-to-equity ratio for these accounts ranged from 17.98% to 81.21%, as reflected in the chart below. Lichtman was a joint representative on AnD's account, which had an annualized turnover rate of 7.64 and an annualized cost-to-equity ratio of 63.42%.

Customer	Review Period	Total No. of Trades	Costs Associated with Realized Trades	Cost-to-Equity At End of Review Period	Annualized Cost-to-Equity	Annualized Turnover	Profit/ (Loss) on Realized Trades	EGC Reg. Rep.
BM	7/9/2012-7/31/2014	38	$34,102.62	37.46%	17.98%	4.26	$32,606.35	Lim, Etter
YM	7/9/2012-6/30/2014	24	$7,562.56	38.78%	19.39%	3.61	($13,019.98)	Lim, Etter
GiC	7/9/2012-7/31/2014	48	$60,139.14	75.77%	36.37%	6.37	$39,360.32	Lim, Etter
AnD	7/9/2012-7/31/2014	47	$107,404.47	132.12%	63.42%	7.64	$103,890.18	Etter, Lichtman
JPD	7/9/2012-7/31/2014	25	$14,281.99	134.65%	64.63%	8.80	$9,596.37	Lim, Etter
AnC	7/9/2012-7/31/2014	46	$93,124.08	155.10%	74.45%	9.54	$24,782.11	Etter
NH Ltd	7/9/2012-7/31/2014	58	$110,076.67	169.20%	81.21%	10.00	$50,652.77	Etter
CVO	10/1/13-7/31/14	83	$159,380.64	31.96%	38.35%	9.32	($189,922.76)	Lee

19. EGC did not have a reasonable basis to recommend an active trading investment strategy to any of their customers. EGC did not conduct any due diligence on the active trading investment strategy they were recommending to customers, either generally or for any specific

customer. They did not consider the strategy's risks, volatility, or likely performance in a variety of market and economic conditions.

20. EGC did not perform any analysis to determine how the costs – commissions and trading fees – of the active trading investment strategy were cumulatively affecting each customer's account. Also, EGC did not perform any analysis to determine how each transaction, including any losses, costs and fees, impacted the broader active trading investment strategy for that customer.

21. Etter failed to understand his duty to recommend only suitable investments to his customers. As but one example of his misunderstanding of suitability, Etter equated suitability with whether the next transaction made up any prior losses. Specifically, Etter provided the following investigative testimony:

> Q: It appears that SFY, when you recommend that he sell it three weeks after he purchased it, that that actually resulted in a loss of $3,000 to Mr. C as a result of the $4,800 in commissions you charged.
>
> ETTER: Okay. What is your question?
>
> Q: Was it a suitable recommendation to recommend that he sell it when he sold it?
>
> ETTER: It would be suitable if the next stock went up the percentage that I needed it to in order to make him that money.

22. When customers did complain, Etter did not report these complaints, and instead tried to hide his behavior by reducing sales charges. As one example, when customer YM expressed concerns about the poor performance and excessive commissions in his account, Etter offered to cease charging commissions to the customer for the next ten trades instead of reporting the complaint.

23. In another instance, customer CV sent an email to Lee stating: "stop trading. I am very disappointed in you. You have abused my trust." Rather than report this customer

complaint to CISC, Etter agreed to cease charging CV "commission until the account [was] even."

24. Prior to FINRA's 2014 cycle examination of the firm, *none* of the EGC representatives could explain turnover rates, commission-to-equity ratios, or cost-to-equity ratios. Etter had no idea what a cost-to-equity ratio of 70% meant. None of the EGC representatives had an understanding of how these rates and ratios could be used to measure the suitability of the active trading investment strategy for a particular customer's account. Not surprisingly, Etter, Lichtman, Lim and Lee did not make any of these calculations for their customer accounts during the Relevant Period.

25. Therefore, the EGC representatives did not understand the risks or costs associated with recommending the active trading investment strategy that they were, in fact, recommending to their customers. In failing to understand the active trading investment strategy that they were recommending to customers, Etter, Lichtman, Lim and Lee did not have a reasonable basis to recommend the strategy to any customers.

26. In many cases, although the EGC representatives were aware that the customers at issue were experiencing significant losses on many of the trades in their accounts, they made no effort to determine how much of these losses were a result of the costs associated with the active trading investment strategy they were recommending to their customers.

CHARGING ALLEGATIONS AGAINST RESPONDENT LICHTMAN

FIRST CAUSE OF ACTION
Unsuitable Investment Strategy Recommendations/Reasonable Basis Suitability (FINRA Rules 2111 and 2010)

27. FINRA Rule 2111, which became effective July 9, 2012, requires, in part, that a broker-dealer or associated person "have a reasonable basis to believe that a recommended

transaction ***or investment strategy*** involving a security or securities is suitable for the customer, based on the information obtained through the reasonable diligence of the [firm] or associated person to ascertain the customer's investment profile." (Emphasis added.) As explained in the Supplementary Material found at Rule 2111.05:

> Rule 2111 is composed of three main obligations: reasonable-basis suitability, customer-specific suitability, and quantitative suitability. ... The reasonable-basis obligation requires a member or associated person to have a reasonable basis to believe, based on reasonable diligence, that the recommendation is suitable for at least some investors. .... **A member's or associated person's reasonable diligence must provide the member or associated person with an understanding of the potential risks and rewards associated with the recommended security or strategy. The lack of such an understanding when recommending a security or strategy violates the suitability rule.** (Emphasis added.)

28. In Regulatory Notice ("RN") 11-25, FINRA emphasized that the term "strategy should be interpreted broadly." RN 11-25 also clarified that FINRA Rule 2111 "would cover a recommended investment strategy regardless of whether the recommendation results in a securities transaction or even references a specific security or securities."

29. In RN 12-25, FINRA detailed again a representative's reasonable basis obligations, stating:

> The reasonable-basis obligation has two components: a broker must (1) perform reasonable diligence to understand the nature of the recommended security or investment strategy involving a security or securities, as well as the potential risks and rewards, and (2) determine whether the recommendation is suitable for at least some investors based on that understanding. A broker must adhere to both components of reasonable-basis suitability. A broker could violate the obligation if he or she did not understand the recommended security or investment strategy, even if the security or investment strategy is suitable for at least some investors. A broker must understand the securities and investment strategies involving a security or securities that he or she recommends to customers.

30. As alleged, Lichtman recommended an active trading investment strategy to his customer during the Relevant Period.

31. Lichtman, however, did not have a reasonable basis for recommending an active trading investment strategy to his customer. He did not understand the investment strategy he was recommending.

32. Lichtman did not know how to calculate or even understand cost-to-equity ratios and turnover rates, which are standard industry metrics used to measure whether an account is being excessively traded. Therefore, he did not understand the impact of trading and costs on his customer's account and on the specific transactions recommended as part of an investment strategy.

33. Likewise, Lichtman did not conduct any due diligence into the active trading investment strategy he was recommending. He routinely recommended this active trading investment strategy to his customer despite the fact he never reviewed his customer's account, either individually or collectively, to determine if the active trading investment strategy was successful or suitable for his customer. Indeed, Lichtman failed to review the results of that strategy over any particular period of time, assess the impact of commissions on account performance, or modify his recommended strategy in the face of mounting costs.

34. Lichtman did not make any inquiry into the commissions and fees his active trading investment strategy generated in particular transactions or overall in an account. He had no idea of the strategy's "break-even point" when he continued to recommend an active trading investment strategy to his customer.

35. Lichtman failed to perform any analysis of the active trading investment strategy's costs, risks, potential benefits, volatility, or likely performance in a variety of market and economic conditions.

36. The active trading investment strategy recommended by Lichtman was not in the best interest of the client whose account is at issue.

37. Accordingly, Lichtman made an unsuitable recommendation of an active trading investment strategy to his customer during the Relevant Period.

Based on the foregoing, Respondent Lichtman violated FINRA Rule 2111 (from July 9, 2012 through July 31, 2014). By violating FINRA Rule 2111, Lichtman also violated FINRA Rule 2010.

Based on these considerations, the sanctions hereby imposed by the acceptance of the Offer are in the public interest, are sufficiently remedial to deter Respondent Lichtman from any future misconduct, and represent a proper discharge by FINRA, of its regulatory responsibility under the Securities Exchange Act of 1934.

SANCTIONS

It is ordered that Respondent Lichtman be suspended for nine (9) months in all capacities from associating with any FINRA Member firm, and fined $7,500.

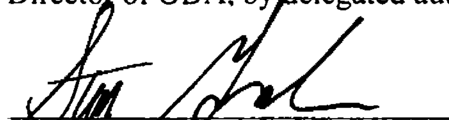
The sanctions imposed herein shall be effective on a date set by FINRA staff.

The fine assessed to Respondent Lichtman shall be due and payable either immediately upon re-association with a member firm, or prior to any application or request for relief from any statutory disqualification resulting from this or any other event or proceeding, whichever is earlier.

SO ORDERED.

FINRA

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



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