

Pursuant to RSA 421-B:6-604(d), the Secretary of State has the authority to impose administrative penalties of up to \$2,500 for a single violation.

Pursuant to RSA 421-B:6-604(g), the Secretary of State may charge the actual cost of an investigation or proceeding for a violation of this chapter or an order issued under this chapter.

Pursuant to RSA 421-B:6-604(d), the secretary of state may permanently bar a person from any securities licensure and registration in N.H.

NOTICE OF RIGHT TO REQUEST A HEARING

Pursuant to RSA 421-B:6-604, Respondents have a right to request a hearing. The request must be made within 30 days from receipt of this Order. If the Respondents fail to request a hearing on this Order within 30 calendar days of receipt, the order shall become final.

Pursuant to RSA 421-B:6-613, upon request for a hearing, said hearing shall be held no later than fifteen days after such request is received by the Bureau. Any such request for a hearing shall be in writing, signed by the Respondents or by the duly authorized agent of the above named Respondents, and shall be delivered either by hand or certified mail, return receipt requested, to the Bureau of Securities Regulation, Department of State, 25 Capitol Street, Concord, New Hampshire 03301. Respondents have the right to be represented by counsel.

STATEMENT OF ALLEGATIONS

The allegations contained in the Staff Petition for Relief dated December 23, 2024 (a copy of which is attached hereto) are incorporated by reference hereto.

ORDER

WHEREAS, finding it necessary and appropriate and in the public interest, and for the protection of investors and consistent with the intent and purposes of the New Hampshire securities laws, and

WHEREAS, finding that the allegations contained in the Staff Petition, if proved true and correct, form the legal basis of the relief requested,

THEREFORE, IT IS HEREBY ORDERED THAT:

1. Respondents shall immediately cease and desist from further violations of RSA 421-B.
2. Respondents are permanently barred from further selling securities in the State of New Hampshire.
3. Respondents shall jointly and severally pay a fine totaling \$380,000 for 152 violations of the New Hampshire Securities Act RSA 421-B.
4. Respondents shall jointly and severally pay the Bureau's costs for investigation and enforcement in the amount of \$100,000.

**SIGNED,
DAVID M. SCANLAN
SECRETARY OF STATE
BY HIS DESIGNEE:**

Date: December 26, 2024



**Barry J. Glennon, Director
N.H. Bureau of Securities Regulation**

STATE OF NEW HAMPSHIRE
DEPARTMENT OF STATE
BUREAU OF SECURITIES REGULATION
25 CAPITOL STREET
CONCORD, NH 03301

STAFF PETITION FOR RELIEF

IN THE MATTER OF:

Herbert J. Sims, & Co., Inc.

and

HJ Sims Investments, LLC

INV2023-0023

- I. The staff of the State of New Hampshire, Department of State, Bureau of Securities Regulation (hereinafter referred to as the "Bureau") hereby petitions the Director, and alleges the following facts and applicable laws:

INTRODUCTION

This enforcement action filed by the Bureau is about the failure of the Respondents to abide by the requirements to assert the lawful application of the Regulation D, Rule 506(b) safe harbor. The action is also about the Respondents committing fraud and dishonest and unethical conduct. The Bureau asserts that in order to establish the Regulation D, Rule 506(b) safe harbor for an offering the Respondents have the burden of proof to establish that they are entitled to it. See RSA 421-B:5-503(a) applicable on or after January 1st, 2016 and RSA 421-B:17,V before January 1st, 2016. From July 2023 to July 2024, the Bureau investigated the Respondents' assertion of Regulation D, Rule 506(b) in the State of New Hampshire. Contained in several subpoena requests the Bureau set out to fully understand the extent of the Respondent's assertion of the Regulation D, Rule 506(b) safe harbor in the State of New Hampshire which started as early as 2006 and extends past 2018. See spreadsheet #1. At the conclusion of its investigation, the Bureau believes that due to the poor and inadequate record keeping of the Respondents, the Respondents were not in full and complete compliance with the Bureau's document requests, unlawfully redacted information the Bureau had

authority to review, failed to keep adequate records and failed to establish adequate due diligence to satisfy their burden of proof that they are lawfully entitled to the safe harbor.

The Financial Industry Regulatory Authority ("FINRA") is the national self-regulatory organization that regulates broker-dealers nationwide. In Notice To Members 10-22 (NTM), FINRA set out to explain the obligations of member firms when selling private placements under the safe harbor in Regulation D, Rule 506. In NTM 10-22, FINRA announced that it is the obligation of a broker-dealer to conduct a reasonable investigation of the issuer when selling private placements which should include an investigation into the issuer and its management. FINRA announced that in order to demonstrate that the broker-dealer has performed a reasonable investigation, a broker-dealer should retain records documenting both the process and results of its investigation. FINRA stated that any broker-dealer that recommends securities offered under Regulation D, Rule 506 must meet its supervisory obligations under FINRA Rules. Specifically, FINRA stated that the scope of this responsibility becomes greater when the issuer is an affiliated entity. When there is an affiliation, FINRA recommends a heightened degree of investigation and due diligence when reviewing such offerings for sale by its agents. FINRA also reminded members of the application of FINRA Rules to such offerings. Due diligence has to be performed by the broker-dealer that is independent and not totally reliant on the disclosure made by the issuer, and broker-dealers have to put in place supervision designed to ensure that FINRA Rules were followed, that proper due diligence was performed and that the requirements of Regulation D, Rule 506 were followed. Similarly, under state law, a broker-dealer is required to properly supervise its agents.

STATEMENTS OF FACT

1. Herbert J. Sims & Co., Inc. ("HJS") is a broker-dealer located at 2150 Post Road, Ste 301, in Fairfield, Connecticut 06824 and has a CRD # 3420. HJS was formed in Delaware in February 1996. HJS has been licensed in New Hampshire as a broker-dealer since March 17, 1983, and has an SEC number of 8-3315. In disclosure documentation provided to the Bureau during this investigation, HJS claims to specialize in underwriting debt and equity securities for more than 70 years concentrating on financing for the senior living industry. HJS claims to be a full-service investment banking firm that specializes in structuring and underwriting financing for long term senior care facilities. Disclosure indicates that HJS has placed over \$10 billion

in senior living financing.

2. An affiliated firm with HJS called HJ Sims Investments, LLC, ("HJSI") also located at 2150 Post Road, Ste 301, Fairfield, Connecticut 06824 was formed in the State of Connecticut in August 2004. Two principals and executive officers of HJS, own one hundred percent of HJSI. The two companies are under common control. The primary purpose of HJSI is to form private funding entities that issue securities debt instruments under Regulation D, Rule 506(b) to retail customers of HJS wanting to invest in unrated bonds or debt instruments designed to pay principal and interest over a period of years. The bonds or debt instruments are high risk because they are only backed by the ability to pay of the borrower. The bonds when sold to HJS customers are listed on HJS customer statements as corporate bonds, but the bonds are unrated and are sold as private placements to accredited investors. Typically, HJS would receive a sales commission of about 5 to 6% of the total offering amount. HJSI would receive a management fee of .05% of the total offering amount.
3. From about 2006 to the present, HJS caused to be filed with the Bureau at least eighteen private placements under Regulation D, Rule 506(b) (see spreadsheet #1), for the purpose of soliciting New Hampshire investors to buy the fund offerings. Starting in 2016, HJS private placement offerings started to experience defaults such as in the offering called Hawkeye Village Financing I, LLC filed with the Securities and Exchange Commission on or about November 4th, 2014. Hawkeye Village Finance I, LLC ("Hawkeye") defaulted on their loan obligations on or about May 1st, 2016. See Exhibit 1 attached. In private placement offering documents, the Respondents failed to disclose the defaults and failed to disclose their past performance with these offerings generally.
4. Upon information and belief, the sales of these private placements were promoted by agents of HJS that would e-mail prospective New Hampshire investors and alert them to the offerings to be underwritten and sold by HJS. If the investor expressed an interest, their name would be reviewed and placed on a mailing list and a "package" would be mailed to the prospective customer with a disclosure statement and an "Investor Representation Letter" ("IRL") to be filled out. The IRL is an affirmation by the investor that they were accredited and qualified.
5. HJS and HJSI (collectively the "Respondents") caused to be filed with the Bureau the

following Regulation D, Rule 506(b) offerings and related sales reports. Spreadsheet #1.

	HJSI Issuers	Effective Date	Termination Date	# Of Sales reported in NH	Dollar Amount of Sales	Info Provided
1	HJSI Athena Portfolio Finance LLC	12/18/2015	X	2 (3)Actual	\$30,000	Yes
2	HJSI Bozeman, LLC	11/19/2007	10/23/2007	1	X	No
3	HJSI Devonshire I, LLC	12/20/2007	1/31/2008	2	\$60,000	No
4	HJSI Encore, I LLC	7/3/2007	7/3/2008	1	X	No
5	HJSI Portfolio I, LLC	5/24/2007	X	1	X	No
6	HJSI Preferred Funding II, LLC	3/9/2010	10/7/2010	0	0	No
7	Sims Cathcart Funding, LLC	5/30/2013	10/17/2013	1	\$15,000	Yes
8	Sims Evergreen Funding LLC	4/7/2010	4/6/2010	0	0	No
9	Sims Fox Hill, LLC	4/10/2006	3/26/2006	3	X	No
10	Sims MacKenzie I, LLC	7/14/2006	X	0	0	No
11	Sims Merrill Gardens I, LLC	2/6/2006	1/25/2006	3	\$225,000	No
12	Sims Merrill Gardens I, LLC	11/29/2006	11/29/2007	3	\$225,000	No
13	Sims Merrill Gardens III, LLC	12/28/2012	10/15/2013	1	X	No
14	Sims New Pond, LLC	9/16/2004	7/22/2010	0	0	No
15	Elderwood Acquisition, LLC	4/23/2013	10/15/2013	1	\$25,000	No
16	NHG Funding II, LLC	6/1/2018	X	1	\$30,000	Yes
17	Monarch Funding I, LLC	12/29/2017	X	1	X	Yes
18	Inspirit Venue Funding I, LLC	8/22/2018	X	0	0	No
Total		These sales were under reported by 1 per paragraph 8(d).		21 (22)Actual	\$610,000	

6. In a subpoena for information, the Bureau asked HJS to identify all New Hampshire investors and all HJS and HJSI offerings made in New Hampshire. HJS reported to the Bureau only the following sales made to New Hampshire residents. See Spreadsheet #2.

New Hampshire Investor	Issuer(s)
PH	Sims Cathcart Funding, LLC
AK	HJSI Athena Portfolio Finance, LLC and Monarch Funding I, LLC
JS	HJSI Athena Portfolio Finance, LLC and NHG Funding II, LLC
RM	HJSI Athena Portfolio Finance, LLC

A. Respondents failed to fully Respond to the Bureau's Requests

7. On July 11, 2023, November 17, 2023, February 20, 2024, and May 17, 2024, the Bureau served the Respondents with subpoenas related to their sale of private placements to New Hampshire Investors. The Bureau requested the names and related documentation of all private placements Respondents offered in New Hampshire. The Bureau also requested the names of all of the Respondents' New Hampshire customers along with their related account information.
8. Despite the Bureau's requests, Respondents failed to inform the Bureau of at least the following:
 - a. Investor PH invested in Sims Fox Hill, LLC;
 - b. Investor PH invested in HJSI Portfolio I, LLC;
 - c. Investor RM was a client of HJS;
 - d. Investor RM invested in Athena Portfolio Finance, LLC, and HJS only reported 2 total sales in New Hampshire for \$30,000 for this offering when there were 3 sales for \$45,000.
 - e. Investor RM invested in HJSI Bozeman I, LLC on or about 10/23/2007, HJSI Devonshire, LLC on about 12/12/2007 and Sims Fox Hill, LLC on or about 3/29/2006.
 - f. Respondents did not provide documentation including the IRL related to 16 sales reported to the Bureau by HJS listed in filed final sales reports with the Bureau, and
 - g. Respondents offered for sale Elderwood Acquisition, LLC and Inspirit Venue Funding, I LLC in New Hampshire.
9. Following the Bureau's issued subpoenas as listed above, and despite being instructed not to redact, Respondents produced 91 different documents with redactions, and did not provide any valid explanation for the redactions. See spreadsheet #3 for the detailed list of redactions.

B. Respondents Failed to Perform Required Due Diligence for the listed Private Placements in a number of ways

10. As part of the Bureau's subpoenas and on the record interview of the HJS Chief Compliance Officer ("CCO"), the Bureau inquired about the Respondent's policy and procedure and due diligence in offering the private placements under the Regulation D, Rule 506(b) safe harbor. The Respondent did not produce sufficient documentation or testimony to support entitlement to the safe harbor and did not have adequate records to establish that they were entitled to the safe harbor particularly regarding the 16 missing sales.
11. According to the testimony of the CCO the Respondents have a "Private Placements Workflow" ("PPW") document that lists the policy and procedures and due diligence for HJS offering and selling private placements. See Exhibit 2 attached. The PPW identifies an Intake Meeting conducted by the banking group and when the deal is ready for distribution there is a Sales Point Meeting for the registered representatives. When subpoenaed regarding the PPW as stated above, HJS failed to produce documents which established compliance with the PPW. HJS failed to produce the following information required by the PPW: Intake Meeting documentation, any documentation or recording of the Sales Point Meeting, any supervisory review of the potential customers and customer mailing list, and proof of mailing the private placement memorandum and IRL form.
12. The CCO sent an email memo dated May 19th, 2023 to Respondents' agents reminding them that FINRA NTM 10-22 requires that HJS perform a reasonable investigation into the private placement offerings made by HJS. The memo states that at a minimum HJS should conduct a reasonable investigation concerning the issuer and its management. See Exhibit 3 attached. Respondents failed to comply with this requirement in that there is no indication that HJS investigated the past performance of the many HJS private placements that made reduced investor payments or outright defaulted on payments. Further, HJS and HJSI failed to disclose to prospective investors that defaults had occurred in other offerings made by HJS and HJSI management. The Bureau has documentation that Respondents made three Regulation D, Rule 506(b) offerings in New Hampshire after the default in Hawkeye listed in spreadsheet #1 listed at 16, 17 and 18.
13. When an HJS agent made a sale of a private placement, the customer was asked to fill out an

IRL which established that the customer was an accredited investor. Respondent only supplied the Bureau with the forms for the sales listed in spreadsheet #2 and not the other offers on spreadsheet #1 sold in New Hampshire which means that 17 of the New Hampshire sales in spreadsheet #1 were not verified to be made to an accredited investor. One of the IRL HJS supply did not have a check off in the box indicating that the investor was accredited.

14. In order to be eligible to claim the Regulation D, Rule 506(b) safe harbor, the issuer must not sell the offering by general solicitation. See Federal Rule 230.502. The broker-dealer must have a preexisting relationship with the customer before soliciting the Regulation D offering. The Respondents did not maintain or produce sufficient customer information to establish that there existed a preexisting relationship prior to the undocumented 16 sales listed in spreadsheet #1. Agents of HJS would e-mail prospective investors on an ad hoc basis and alert them to the coming of an HJS private placement to see if they had interest. See Exhibit 4 attached. This conduct is evidence of a lack of supervision over the offering where there is no indication from HJS documentation that the prospective investor recipient had a pre-existing relationship with HJS.

STATEMENTS OF LAW

- II. The Bureau hereby petitions the Director and makes the following statements of law under RSA 421-B:

15. Respondents are each a "person" within the meaning of RSA 421-B:2, XVI, effective prior to January 1st, 2016, and RSA 421-B:1-102(39), effective since January 1st, 2016.
16. The private placements listed in spreadsheet #1 offered and sold to New Hampshire Investors prior to January 1st, 2016, are securities as defined by RSA 421-B:2, XX(a), and since January 1st, 2016 as defined by RSA 421-B:1-102(53)(A), because they are either equities or bonds.
17. Pursuant to RSA 421-B:3, I(b), effective prior to January 1, 2016 and RSA 421-B:5-501(a)(2) effective since January 1, 2016, it is unlawful for any person, in connection with the offer,

sale, or purchase of any security, to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading. HJS and HJSI violated RSA 421-B:3, I(b) and RSA 421-B:5-501(a)(2) by not disclosing in their private placement memorandum for offerings listed in spreadsheet #1 as 16, 17 and 18, that some of the HJS offerings were experiencing defaults and or underwent reduced payments. This conduct was also dishonest and unethical pursuant to RSA 421-B:4-412(b)(d)(13) after January 1st, 2016 and RSA 421-B:10(a) and (b)(7) before January 1st, 2016.

18. Pursuant to RSA 421-B:11, I, effective prior to January 1st, 2016, it is unlawful for any person to offer or sell any security in New Hampshire unless it is registered under 421-B, the security is exempt, or it is a federal covered security. Effective January 1st, 2016, pursuant to RSA 421-B:3-301(a), it is unlawful for a person to sell a security in this state unless the security is a federal covered security, the security is exempt, or the security is registered for sale. The Respondents cannot establish that 16 sales made in New Hampshire were to accredited investors nor can the Respondents establish that 16 of those sales were not by general solicitation, and therefore, the Respondents made at least 16 unregistered sales of their private placements in New Hampshire.

19. Pursuant to RSA 421-B:17, V, effective prior to January 1st, 2016, and pursuant to RSA 421-B:5-503(a), effective since January 1st, 2016, a person claiming an exemption has the burden to prove the applicability of the exemption. Despite numerous requests from the Bureau, Respondents have not provided sufficient evidence to establish that the 21 private placement sales identified in spreadsheet #1 satisfy the requirements for the Regulation D, Rule 506(b) safe harbor.

20. Pursuant to RSA 421-B:6-602(a)(2), the Bureau can require a party to produce a record concerning a matter under investigation. As listed in paragraph 7, the Bureau subpoenaed Respondents to produce documents relating to its private placement offerings made in New Hampshire. Respondents did not fully comply with these requests, as follows:

- a. Respondents made redactions on 91 separate documents as listed in spreadsheet #3.
- b. Respondents did not inform the Bureau that Investor PH invested in Sims Fox Hill,

LLC.

- c. Respondents did not inform the Bureau that Investor PH invested in HJSI Portfolio I, LLC.
 - d. Respondents did not inform the Bureau that Investor RM was a New Hampshire client.
 - e. Respondents did not inform the Bureau that Investor RM invested in HJSI Bozeman I, LLC, HJSI Devonshire, LLC and Sims Fox Hills, LLC.
 - f. Respondents did not provide any documentation related to 16 sales reported on Rule 506 sales reports filed with the Bureau.
 - g. Respondents did not inform the Bureau that Respondents offered Inspirit Venue Funding, I LLC in New Hampshire.
 - h. Respondents did not inform the Bureau that Respondents offered Elderwood Acquisition, LLC.
21. Pursuant to RSA 421-B:10, I(b)(10), effective prior to January 1, 2016, and pursuant to RSA 421-B:4-412(b)(d)(9) effective since January 1st, 2016, a broker dealer is required to reasonably supervise their agents. Respondents did not follow its supervisory procedures to ensure their private placements were sold in accordance with the HJS private placement policy and procedure. Respondent failed to take the compliance steps required by the PPW and failed to abide by the CCO officer's e-mail memo concerning the necessity to perform due diligence regarding the prior performance of the HJS private placement offerings and management listed in spreadsheet #1.
22. Pursuant to RSA 421-B:4-406(k), effective since January 1, 2016, and RSA 421-B:8,X effective before January 1st, 2016, broker-dealers are required to comply with the applicable rules of the FINRA.
23. Pursuant to FINRA Rule 2200(d), all member communications must be based on principals of fair dealing and good faith, must be fair and balance, and must provide a sound basis for evaluating the facts in regard to any particular security. A private placement memorandum is a communication with the public. Respondents failed to comply with this requirement when HJS mails private placement disclosures that failed to disclose the defaults and reduced payments of the HJS private placement offerings.
24. Pursuant to RSA 421-B:6-604(a)(1), whenever it appears to the secretary of state that any person has engaged or is about to engage in any act or practice or materially aids in acts constituting a violation of this chapter or any rule under this chapter, he shall have the

power to issue and cause to be served upon such person an order requiring the person to cease and desist from violations of this chapter. HJS and HJSI are subject to a cease and desist order and sanctions for all of the violations listed herein jointly and severally because they are under common control.

25. Pursuant to RSA 421-B:26, III, effective prior to January 1, 2016, and RSA 421-B:6-604(d), effective since January 1, 2016, the secretary of state may impose a civil penalty up to a maximum of \$2,500 for a single violation of RSA 421-B. Respondent should be fined \$380,000 as follows: 16 unregistered sales, 17 sales lack of documentation, 91 redactions, fraud and dishonest and unethical conduct in 4 sales - 2 counts improper written communications to the public, 22 sales lack of due diligence and supervision.
26. Pursuant to RSA 421-B:22, IV, effective prior to January 1, 2016 and RSA 421-B:604(g) effective since January 1, 2016, in any investigation to determine whether any person has violated or is about to violate this title or any rule or order under this title, upon the secretary of state's prevailing at hearing, or the person charged with the violation being found in default, or pursuant to a consent order issued by the secretary of state, the secretary of state shall be entitled to recover the costs of the investigation, and any related proceedings, including reasonable attorney's fees, in addition to any other penalty provided for under this chapter. HJS and HJSI should be ordered to pay costs in the amount of \$100,000 dollars.

RELIEF REQUESTED

- III. The Bureau makes the following requests for relief in the above-referenced matter as permitted under RSA 421-B:
 1. Find as fact the statements contained in Section I, the Statements of Fact.
 2. Make conclusions of law relative to the statements contained in Section II, the Statements of Law.
 3. Pursuant to RSA 421-B:6-604(a)(1) (formerly RSA 421-B:23(I)(a), order Respondents to be barred and to immediately and permanently cease and desist from further selling securities in

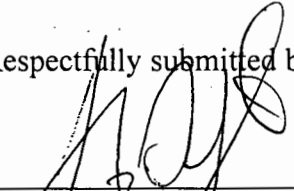
the State of New Hampshire.

4. Pursuant to RSA 421-B:26, III, and RSA 421-B:6-604(d) Respondents should be fined \$380,000 dollars each for the 152 violations of RSA 421-B listed above.
5. Pursuant to RSA 421-B:22, IV, and RSA 421-B:6-604(g) order Respondents to pay the Bureau's costs of investigation and enforcement in the amount of \$100,000.

RIGHT TO AMEND

The Bureau staff reserves the right to amend this Staff Petition for Relief and request the Director of the Bureau take additional administrative action. Nothing herein shall preclude the Staff from bringing additional enforcement action under RSA 421-B or the regulations thereunder.


Respectfully submitted by:



Jeff Spill, Deputy Director

12/23/24

Date



Michael Kirwin, Staff Attorney

12/23/24

Date

Spreadsheet 3 - Redactions					
#	Bates #	#	Bates #	#	Bates #
1	HJS-004522	31	HJS-007102	61	HJS-008338
2	HJS-004534	32	HJS-007346	62	HJS-008344
3	HJS-005141	33	HJS-007373	63	HJS-008349
4	HJS-005195	34	HJS-007433	64	HJS-004381
5	HJS-005199	35	HJS-007455	65	HJS-004383
6	HJS-005250	36	HJS-007688	66	HJS-004385
7	HJS-005289	37	HJS-007713	67	HJS-004387
8	HJS-005377	38	HJS-007948	68	HJS-004389
9	HJS-005394	39	HJS-007960	69	HJS-008600
10	HJS-005456	40	HJS-007966	70	HJS-008604
11	HJS-005891	41	HJS-007970	71	HJS-008606
12	HJS-005906	42	HJS-007972	72	HJS-008608
13	HJS-005933	43	HJS-007977	73	HJS-008616
14	HJS-06295	44	HJS-007991	74	HJS-008615
15	HJS-006300	45	HJS-008004	75	HJS-008620
16	HJS-006326	46	HJS-008012	76	HJS-008624
17	HJS-006342	47	HJS-008034	77	HJS-008625
18	HJS-006459	48	HJS-008060	78	HJS-008638
19	HJS-006468	49	HJS-008078	79	HJS-008642
20	HJS-006494	50	HJS-008087	80	HJS-008648
21	HJS-006530	51	HJS-008135	81	HJS-008650
22	HJS-006555	52	HJS-008140	82	HJS-008670
23	HJS-006567	53	HJS-008146	83	HJS-008698
24	HJS-006572	54	HJS-008167	84	HJS-008704
25	HJS-006599	55	HJS-008196	85	HJS-008720
26	HJS-006784	56	HJS-008200	86	HJS-008732
27	HJS-007085	57	HJS-008224	87	HJS-008755
28	HJS-07086	58	HJS-008240	88	HJS-008669
29	HJS-007096	59	HJS-008264	89	HJS-008790
30	HJS-07097	60	HJS-008315	90	HJS-008795
				91	HJS-008816

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Default Corp Action

Company Hawkeye Village Finance I LLC
CUSIP 42020PAB Currency USD

Announced Date 05/01/2016
Effective Date 05/01/2016

Missed Payment Date 05/01/2016

Status In Default
Reason Coupon Payment Only

Action ID 225184353

Exhibit 1

SN 525791 EST GMT-5:00 ba1428-6 04-Dec-2024 17:41:47

Exhibit 2

Private Placements Workflow

1. Each private placement issue that is originated by the investment banking group begins with an Intake Meeting where the bankers involved prepare and present an Intake Memo that provides information about the proposed financing, the sponsors, the financial projections, and the plan of finance. If the Intake Committee provides preliminary approval, the bankers continue with their due diligence, structuring the transaction and preparation of appropriate offering materials including a Private Placement Memorandum ("PPM"). All private placements are designated for Accredited Investors only and HJS only sells to Accredited Investors.
2. When the deal is ready to be distributed, but prior to mailing the Offering Material to prospective investors, a Sales Point Memorandum is prepared by the banking group and distributed to all registered reps. This is followed by a Sales Point Meeting open to all registered reps. The bankers involved review the Sales Point Memorandum and answer questions related to the deal. This Sales Point Meeting is recorded.
3. Once the registered reps understand the issue, we ask them to estimate their clients' interest in aggregate and submit an indication of the total number of bonds that their client book will demand.
4. Based on the feedback in terms of indications, Operations make pre-allotments to each interested registered rep so that they may compose a mailing list of accredited investors who will receive the offering documents. These aggregate allotments by branch are reviewed by each Branch Manager and adjusted as needed.
5. Each registered rep submits a mailing list of prospective investors. This list of prospective investors is reviewed by Branch Manager to ensure that anyone receiving the documents is an accredited investor, that the investment is suitable, that the investment does not trigger concentration issues in the client's portfolio.
6. The finalized mailing list is sent to the printer by Operations and each prospective investor receives the PPM, together with a cover letter, instructions on how to complete the investor representation letter and the investor representation letter.

HJS sends all PPMs by paper. If a client is travelling or otherwise unable to receive the package, then HJS also sends electronic copies. Operations tracks the e-delivery and receipt of the PPMs.

7. Mailed material is numbered and personalized and sent directly by the printer to individuals on the mailing list. Evidence of mailing is maintained by Operations.
8. Those clients who wish to invest are requested to sign and return the investor representation letter using the return envelope or sign the letter electronically. All attestations are due by settlement date.
9. Operations tracks receipt of executed investor representation letters and inform the Branch Managers and Registered Representatives when documentation is missing prior to ticketing to ensure that all executed investor representation letters are received by settlement date.
10. Operations aggregate orders and revise allocations as needed to satisfy demand.

11. Once all orders are recorded, but prior to ticketing, each Branch Manager reviews and approves orders within the branch.
12. Orders are entered into a master spreadsheet and uploaded to the TOMS order management system for execution.

Operations Desk Procedure 2021.03

Exhibit 3

From: Valerie Hebert
Sent time: 05/19/2023 09:35:00 AM
To: Private Client Group; Jeffrey Sands; Curtis King; Brett Edwards; Brock Bagelman; James Rester
Cc: Valerie Hebert; Jonathan Jarow; John Koene; Mariangie Colon; Patrick Richard
Subject: COMPLIANCE BULLETIN: Private Placements and Reg BI

Good morning,

This is based on an article by Sidley Austin LLP (see link at the end).

On May 9, 2023, the Financial Industry Regulatory Authority (FINRA) issued **Regulatory Notice 23-08** (Notice) to remind broker-dealer of their obligations when selling private placements pursuant to Regulation D safe harbors under Sections 3 and 4 of the Securities Act of 1933 (Reg D). FINRA previously addressed such obligations in **Regulatory Notice 10-22**, issued more than a decade ago. The Notice updates and supplements FINRA's prior guidance and focuses on, among other things, a member's role when recommending private placements and the application of Regulation Best Interest (Reg BI).

Recommendations in Connection With Private Placements

When recommending private placements to retail customers, broker-dealers must act in the customer's best interest and comply with several obligations found in Reg BI.

Reasonable Basis Obligations and Duty to Conduct a Reasonable Investigation

Both Reg BI (*for retail investors*) and Rule 2111 (*for institutional investors*) require broker-dealers to have a reasonable basis for their private placement recommendations, which requires performing reasonable diligence to understand the nature of the security, potential risks and rewards, and suitability for at least some customers.

As previously explained by FINRA in Regulatory Notice 10-22, at a minimum, broker-dealers should conduct a reasonable investigation concerning the issuer and its management, the issuer's business prospects, the assets held by or to be acquired by the issuer, the claims being made, and the intended use of the offering.

In addition, in this new Notice FINRA states that member firms should consider the following areas as a part of a reasonable investigation of a private placement:

1. regulatory and litigation history of the issuer and its management (e.g., criminal, disciplinary, and litigation history), and any affiliate that may be materially involved in the issuer's businesses, as well as the issuer's compliance with the bad-actor provisions under Rule 506(d)-(e)
2. new material developments, including events that are or should be reasonably known to the member firm during an offering (e.g., legal proceedings or regulatory inquiries involving the issuer)
3. transactions or payments between issuers and their affiliates involving offering proceeds
4. representations of past performance of the issuer, its sponsor, or its manager to identify any such representations that may be misleading or exclusively selected based on positive results or cherry-picking

With respect to Reg BI, broker-dealers must obtain and analyze enough customer information to have a reasonable basis to believe that the recommendation is in the retail customer's best interest, applying heightened scrutiny to risky or complex products (including private placements) and considering reasonably available alternatives.

Reg BI's Disclosure, Conflict of Interest, and Compliance Obligations

Under Reg BI, broker-dealers are required, before or during the recommendation, to provide a full and fair written disclosure of all material facts relating to the scope and terms of the relationship with the retail customer and all material facts relating to conflicts of interest associated with that recommendation. Examples of these material facts related to the scope and terms of the relationship may include the capacity in which the broker-dealer is acting, the material fees and costs applicable to the retail customer's transactions, and the type and scope of services provided to the retail customers.

Other Requirements Applicable to Private Placements

1. *Communications With the Public.* Offering materials is considered a communication with the public under FINRA Rule 2210, if the member was involved in preparing the materials. Sales literature regarding private placements that members distribute generally also constitutes a communication with the public, whether or not the member assisted in its preparation.
2. *Private Placement Filings With FINRA.* Pursuant to FINRA Rule 5122 and 5123, FINRA requires members to submit a form that contains information about the member selling the private placement securities, the issuer, and the offering terms as well as any offering documents, if applicable. Both these rules also require filings to include member retail communications that promoted or recommended the private placement.
3. *Supervision.* FINRA Rule 3110 requires members to establish, maintain, and enforce supervisory systems and written procedures to supervise the types of business it engages and activities of associated persons. Procedures must be designed to

verify that private placement offerings are properly supervised before being marketed to other members or sold directly to customers. Broker-dealers should periodically update their procedures, systems, and programs, such as by incorporating SEC staff guidance on Reg BI.

Best,

[FINRA Issues Regulatory Notice on Broker-Dealer Responsibilities in Private Placements | Insights | Sidley Austin LLP](#)

To: PJ Dee
Cc: PJ Dee[pjdee@hjsims.com]
From: Jill Romer
Sent: Fri 2/14/2014 12:32:45 PM
Subject: hj sims

Exhibit 4

Hi Jim,

Hope all is well with you!!

PJ would like to send you a fed ex package on a new taxable offering we are underwriting.

Just wonder where I can fed ex it to!!!

Thanks much,

Jill

To: Alan Nangle <alan.nangle@hjsims.com>
From: Adam Goodman
Sent: Tue 11/4/2014 11:58:40 AM
Subject: Thank You

Hi Alan:

I wanted to thank you for referring Al Posnack to me.

We had a very good conversation and I look forward to speaking with him further.

Speak with you soon.

Sincerely,

Adam Goodman
Vice President

Herbert J. Sims & Co, Inc.

Goodman Strategic Asset Management Group
101 North Federal Highway
Suite 501

Boca Raton, Florida 33432

agoodman@hjsims.com

www.hjsims.com

(561) 620-2148 Direct Dial

(800) 524-8413 Toll Free

(954) 536-5921 Cell Phone

(561) 368-9401 Fax

Follow Us On LinkedIn: [Goodman Strategic Asset Management Group - LinkedIn](#)



Securities Offered Through HJ Sims



To: Jim Smith
From: PJ Dee
Sent: Fri 12/4/2015 2:56:01 PM
Subject: Meridian Portfolio Funding

Hi Jim,

Since you are going to be unreachable for approximately one month beginning December 12th, we will use this email to confirm your interest in our Meridian Portfolio Funding private placement deal. As we will not have the completed material for you to sign prior to leaving, if you reply back to this email agreeing that you wish to purchase bonds on this new deal, we will be able to execute the purchase for you and you can return the required paperwork once you have returned from your trip.

Thanks so much.

PJ



Peter J. Dee Jr. (PJ)
Vice President
2150 Post Road, Suite 301
Fairfield, CT 06824
203.418.9078 Direct Dial
203.256.2377 Fax

THE OUTCOME IS INCOME™

Member of FINRA/SIPC

To: [redacted]
From: Adam Goodman
Sent: Wed 5/31/2017 1:38:11 PM
Subject: New Hampshire Tax-Free Bond - Hillside Village
[HJSHillsideVillage01a-POS.pdf](#)

Hi Alan:

I hope all is well. HJ Sims is in the process of underwriting a new CCRC which will be located on 48 acres in Keene. Hillside Village is being developed by the Prospect-Woodward Home which was the result of merger last July between Prospect Hill Home and The Woodward Home and can trace their origins in the community to 1874 and 1932 respectively. The community will consist of 116 independent living apartments and 24 villas, 60 assisted living beds (including 18 memory care beds) and 20 long-term nursing beds. As of the beginning of May, the community had 10% deposits on 78% of the independent living units. Upon completion, the residents of Prospect-Woodward Home will be transferred to the assisted living units within Hillside Village.

The state of New Hampshire has strict guidelines in the development of new CCRC's and when the issue being underwritten is below investment grade, the State requires \$100,000 minimum initial purchase with additional purchases in increments of \$5,000. The bond issue has four (4) separate series. Series A are term bonds with a final maturity of 2052. The Series B & C bonds are Entrance-Fee Redemption Bonds which are redeemed through the entrance fees that new residents pay and have a shorter average life. The Series D are short-term taxable bonds which are also Entrance Fee Redemption Bonds.

The maturity/interest rate schedule is as follows:

Series A

2027	5.25%	at 100
2037	6.25%	at 100
2042	6.25% - 6.35%	Yield to Maturity
2052	6.25% - 6.50%	Yield to Maturity

Series B (Average Life – 3.083 years)

2024	4.25%	at 100
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Series C (Average Life – 2.083 years)

2022	3.625%	at 100
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Series D (Average Life – 1.75 years) FEDERALLY TAXABLE

2022	4.00%	at 100
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I am attaching the preliminary official statement for your review. This was originally to be an institutional underwriting but the demand that retail investors, who live in NH, we have a limited retail order period window.

I understand that the \$100,000 is a hurdle but I would be remiss if I did not at least bring this to your attention.

Let me know if you have any questions. Speak with you soon.

Sincerely,

Adam Goodman
Vice President
Herbert J. Sims & Co, Inc.
Goodman Strategic Asset Management Group
101 North Federal Highway
Suite 501
Boca Raton, Florida 33432
agoodman@hjsims.com
www.hjsims.com
(561) 620-2148 Direct Dial
(800) 524-8413 Toll Free
(954) 536-5921 Cell Phone
(561) 368-9401 Fax

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