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

**AMENDED STAFF PETITION FOR RELIEF**
**IN THE MATTER OF:**

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| **Peter A. Bill**<br>**Scanwood Limited Incorporated**<br><br>**and**<br><br>**AOS, Inc.**<br><br>**Respondents** | **No. COM.2018-0002** |

I. The staff of the Bureau of Securities Regulation, Department of State, State of New Hampshire (the "Bureau") hereby petitions the Director amending the petition dated November 8, 2019, and makes the following statement of facts:

**STATEMENT OF FACTS**

1. Peter A. Bill (hereinafter "PB") was a licensed broker-dealer agent of AOS, Inc. (CRD number 128605 dba Tradingblock and Moneyblock (hereinafter "AOS")) starting in January 2015 and terminating in November 2017. PB's CRD number is 825738. PB also is the owner and principal of Scanwood Limited Incorporated (hereinafter "Scanwood"), an investment adviser firm located at 18 Mt. Forist Street, Berlin, New Hampshire 03570. Scanwood's CRD number is 145223. Scanwood was licensed in New Hampshire as an investment adviser from December 2007 through the end of 2019. PB was licensed in New Hampshire as an investment adviser representative of Scanwood from December 2007 through the end of 2019.

**Relationship Between and Among the Parties**

2. **AOS.** AOS is a registered broker-dealer with the Bureau, and as such, must be a member of the Financial Industry Regulatory Authority ("FINRA"). FINRA is a self-regulatory organization that writes and enforces rules governing the securities industry. As a registered broker-dealer, AOS is subject to the New Hampshire Uniform Securities Act and it must comply with FINRA rules. *See* RSA 421-B:8, X; RSA 421-B:4-406(k). Registration as a broker-dealer allows AOS to provide securities broker services—the ability to handle orders to buy and sell securities—in this state to customers of AOS. To become a customer of AOS, a customer opens an AOS account and permits an AOS agent, who is also registered with the Bureau and FINRA, to buy and sell securities in the customer's account. PB's clients opened separate accounts with AOS and were provided individual AOS account numbers. Broker-dealer agents are required to ensure their securities recommendations are suitable to clients. PB's clients, who were also customers of AOS, completed AOS Account Applications that identified the customer's financial profile, including, but not limited to, the customer's DOB, employment status, liquid assets, net worth, annual income, investment experience, investment objective, and risk tolerance. In addition to the Account Applications, customers, who were trading options, were also required to sign an Options Disclosure Document, an Informed Consent to Electronic Delivery Agreement, and an Acknowledgement of Account Agreement Terms and Conditions. The account opening applications and other listed documents—all of which were signed by the customers—featured an AOS logo prominently displayed at the top of the page. AOS is what is known as an introducing firm, in which case it does not clear transactions on behalf of its customers. AOS introduces its customers to Apex on a fully disclosed basis for clearing services.

3. **Apex.** While AOS handles its customers' buy and sell orders, it does not maintain custody of customer accounts, and it does not settle—directing the transfer of funds from one financial institution to another—the purchases and sales of securities. To clear its customers' orders, AOS has an arrangement with a clearing firm (also known as a carrying firm). In this case, Apex Clearing Corp. is the clearing firm. Each of PB's and AOS's customers were required to sign an Authorization Agreement from Apex, which listed Scanwood as the customer's "Adviser" and AOS as the customer's "Brokerage Firm." Based on FINRA Rule 4311 (d), "[e]ach customer whose account is introduced on a fully disclosed basis shall be notified in writing upon the opening of the account of the existence of the carrying agreement and the responsibilities allocated to each respective party. The carrying firm shall be responsible for the content of such notification to the customer. The customer shall be notified promptly and in writing in the event of any change to any of the parties to the agreement or any material change to the allocation of responsibilities thereunder." Neither Apex nor AOS make it clear who is responsible for supervision of its customers. According to Apex records, Scanwood is the order-enterer of record.

4. **Scanwood.** Scanwood was a registered investment adviser with the Bureau. An investment adviser that is formed as a type of business organization, like in this case, must identify its control person in its application for registration. Each person providing

investment advice on behalf of the investment adviser must also be registered as an investment adviser representative. PB was identified as the president, sole owner, and control person of Scanwood. As an investment adviser, Scanwood has discretionary authority to determine what securities, and the quantity thereof, to buy and sell in each of its client accounts. In carrying out this discretionary authority, Scanwood and PB have a fiduciary duty to act at all times in its clients' best interests. Scanwood received compensation by collecting management fees based on the value, or assets under management, of each client account.

5. **PB.** As a broker-dealer agent of AOS, PB was required to abide by the Compliance Manual, and Policies and Procedures of AOS, FINRA Rules, and the New Hampshire Uniform Securities Act. At the same time, based on PB's broker-dealer agent relationship with AOS, AOS was required to supervise PB. (See RSA 421-B:4-412; FINRA Rules 2360 & 3110-3310). Forms that PB signed to maintain his license with AOS demonstrate PB's obligation to comply with AOS policies and AOS's obligation to supervise PB's compliance of AOS policies. PB was required to disclose his outside business activities—namely, Scanwood and his relationship to Scanwood as its sole owner, control person, and investment adviser representative. An AOS principal approved of PB's outside registered investment adviser business. Moreover, AOS provided PB with business cards that identify him as a registered representative of AOS, that include his AOS email address, and state "securities offered through: MoneyBlock, LLC, Member of FINRA/SIPC."

6. **Investor #1.** Investor #1 is an 82 year old widow from North Stratford, New Hampshire and was a client of PB's and AOS. Investor #1 opened an account with AOS in or about January 2015. Approximately two hundred thirteen thousand dollars ($213,000) were transferred to fund her new account. PB traded that account on a discretionary basis. A majority of the transferred funds were held as cash at the previous firm. At the time Investor #1 opened an account with AOS, she was a 76-year-old retiree living on a fixed income. Investor #1 closed her account with AOS in January 2018 when she complained to the Bureau.

7. **All Client Accounts.** The Bureau's expert reviewed the trading in the accounts included on the attached Exhibit A, which includes Investor #1 (collectively referred to as "All Client Accounts"). Exhibit A also separates losses of PB's trading in options and inverse and leveraged ETFs.

**Suitability**

8. FINRA Rule 2111 states that "a member or an associated person must 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 member or associated person to ascertain the customer's investment profile." The rule is composed of three main obligations: reasonable-basis suitability, customer-specific suitability, and quantitative suitability.

9. **Reasonable basis 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. In general, what constitutes reasonable diligence will vary depending on, among other things, the complexity of and risks associated with the security or investment strategy and the member's or associated person's familiarity with the security or investment strategy. 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." FINRA Rule 2111, Supplementary Material 2111.05 (emphasis in original).

10. **Reasonable basis suitability as to leveraged and inverse ETF trading.** Exchange-traded funds ("ETFs") are registered investment companies whose shares represent an interest in a portfolio of securities that track an underlying benchmark or index. ETFs are unlike traditional mutual funds since they trade throughout the day at market prices as opposed to traditional mutual funds that are priced at the end of each trading day based on net asset value. Inverse and leveraged ETFs are highly complex and have different performance objectives than regular ETFs. Regular ETFs track the underlying index or benchmark whereas inverse and leveraged ETFs are designed to reach their stated performance objectives on a daily basis. Inverse ETFs seek to deliver the opposite of the performance of the index or benchmark they track; consequently, inverse ETFs are marketed as a way to profit in a declining market. Because inverse and leveraged ETFs seek to achieve their performance on a daily basis, their performance over longer periods of time, such as weeks, months or years, can have significantly different results. This negative effect can be made worse in a volatile market. Large losses can accrue through what's known as "compounding". Compounding occurs when the price of inverse and leveraged ETFs drop over a number of days and the losses compound rather than track the index or benchmark. Because of such a high risk of plausibly compounding losses, inverse and leveraged ETFs are unsuitable for retail investors who are better suited for a buy and hold strategy. FINRA Regulatory Notice 09-31 explains that inverse and leveraged ETFs, "[d]ue to the effects of compounding, their performance over longer periods of time can differ significantly from their stated daily objective" and "inverse and leveraged ETFs that are reset daily typically are unsuitable for retail investors who plan to hold them for longer than one trading session, particularly in volatile markets."

11. The riskiness and complexity of leveraged and inverse ETFs is explained in the prospectuses of the products. For example, the prospectus of ProShares UltraShort S&P500, which is a leveraged and inverse ETF that was held in the accounts of PB's clients, states that the product "does not seek to achieve its stated investment objective over period of time greater than a single day." "Longer holding periods, higher index volatility, inverse exposure and greater leverage each exacerbate the impact of compounding on an investor's returns." It goes on to say that the product is "riskier than similarly benchmarked exchange-traded funds that do not use leverage. Accordingly, the fund may not be suitable for all investors and should be used only by knowledgeable investors who understand the potential consequences of seeking daily inverse leveraged

investment results." It warns that "because of daily rebalancing and compounding of each day's returns over time, the return of the Fund for periods longer than a single day will be the result of each day's returns compounded over the period, which very likely differ from two times the inverse (-2x) of the return of the Index over the same period. The Fund will lose money if the level of the Index is flat over time, and it is possible that the Fund will lose money over time even if the level of the Index falls, as a result of daily rebalancing, the Index's volatility and the effects of compounding."

12. AOS's compliance manual states "leveraged ETFs are not designed to match the return for a holding period that is longer than the objective stated in the prospectus (e.g., daily)." Further, the manual states "Leverage and inverse ETFs may be appropriate to use for sophisticated trading or hedging strategies for certain clients; however, they are complex and are usually designed to achieve their stated objectives on a daily basis. Their performance over longer periods of time can vary significantly from their stated daily objective. It is important to understand the way these products reflect returns of the underlying indices that they are designed to track."

13. As part of the Bureau's investigation, on January 16, 2019, PB submitted to a sworn statement under oath. In PB's statement under oath before the Bureau, PB testified that he was unaware that certain ETFs are only designed to be held for one day, demonstrating a lack of basic understanding on how leveraged and inverse ETFs work and contrary to the clear guidance in the prospectus. PB traded such ETFs in his 69 of his retail clients' accounts[1] and usually held them for well beyond a single day, compounding losses.

14. Between 2015 and November 2017, PB engaged in the trading of leveraged and inverse ETFs in 69 of his retail clients' accounts. On occasion, PB would sell put options on leveraged and inverse ETFs. If at expiration of the options the underlying ETF's price was less than the exercise price of the option, PB's clients would be obligated to buy the underlying leveraged and inverse ETF shares covered by the short put option contract for more than the ETFs were then worth. Some leveraged and inverse ETF shares were then held in PB's clients' accounts. The Bureau determined that, to the detriment of 69 of PB's accounts, PB's trading scheme included improper trading of leveraged and inverse ETFs by holding positions in these funds beyond a single trading day, demonstrating that PB was not aware of basic, material facts which determine the particular risks and likely returns of those types of investments. For PB's trading in inverse and leveraged ETFs, the combined losses of the 69 accounts amount to approximately $74,028.

15. **Reasonable basis suitability as to options trading.** Options are commonly considered risky, speculative investments. *Murphy*, 2010 FINRA Discip. LEXIS 29, at *37. While certain purchasing strategies may reduce risk, selling put options—the primary option trading AOS and PB implemented in clients' accounts—is a highly speculative strategy.

16. If an account sells put options and the stock price of the underlying stock is above the options' strike price at expiration, the accountholder must pay more for the underlying stock than it is worth at the time unless she/he buys back the put option prior to expiration.

[1] These 69 accounts represent a subset of the 80 accounts defined herein as All Client Accounts.

If the price of the stock underlying the option is less than the option's strike price by more than the initial receipts from selling the put option, the account loses money on the short put option trade whether the short put option is allowed to be exercised or is bought back to close out the position immediately before it is exercised.

17. As an example, 10 XYZ 50 put contracts are sold for $5 per covered share. Stock option contracts have a contract multiplier of 100 meaning that each contract covers 100 shares. The 10 contracts in our example cover 1,000 shares and at $5 premium per share the account collects $5,000. At expiration, if the price of XYZ stock is $38, the put option is exercised, and the accountholder who sold the options is required to buy 1,000 shares for $50 per share when they are only worth $38. In this example, the account holder now has 1,000 shares of XYZ for which she paid $45,000 – $50,000 when the short put options was exercised against her offset by the $5,000 initial premium received. These 1,000 shares are worth only $38,000 and so the account holder lost $7,000 as a result of the short put options trade.

18. Between 2015 and November 2017, PB engaged in options trading in All Client Accounts. During the on the record testimony of PB on January 16, 2019, when asked why PB engaged in the put and call options trading in his customer accounts, he testified that his options strategy had a 70 to 80 percent chance of being successful. When asked what the benefit of the trading was, PB stated that the customer would retain the options contract premiums when the contracts expired as worthless. However, PB's heavy options trading scheme was erratic and costly, substantially reducing the chance for profit and success. Instead of creating an income stream for his clients, All Client Accounts lost a combined amount of approximately $243,940.

19. The Bureau determined that, to the detriment of All Client Accounts, PB engaged in erratic and costly trading of options on leveraged and inverse ETFs, on ETNs, and on individual stocks, demonstrating a lack of understanding of option trading basics. Such a lack of understanding was also made evident by PB's on the record under oath statement to the Bureau.

20. PB engaged in the same erratic and costly options trading scheme on leveraged and inverse ETFs, on ETNs, and on individual stocks across All Client Accounts.

21. **Customer-specific suitability.** The customer-specific obligation requires that a member or associated person have a reasonable basis to believe that the recommendation is suitable for a particular customer based on that customer's investment profile. A customer's investment profile includes, but is not limited to, the customer's age, other investments, financial situation and needs, tax status, investment objectives, investment experience, investment time horizon, liquidity needs, risk tolerance, and any other information the customer may disclose to the member or associated person in connection with such recommendation.

22. **Customer-specific suitability as to Investor #1.** When Investor #1 became a customer of AOS, she was a 76-year-old widow and had been retired for many years living on a

fixed income. In order to become a customer of AOS and open an account, Investor #1 had to sign an Account Application. Investor #1 did not fill-in her financial profile information on the application. Instead, PB filled in the relevant financial profile information and simply had Investor #1 sign the Account Application. PB listed her risk tolerance on the application as "medium." Investor #1 describes her risk tolerance as conservative—she mainly held her assets in cash holdings and in annuities. In contradiction to what PB had indicated as Investor #1's risk tolerance—medium—PB identified her investment objective as capital appreciation, which AOS defines as "high risk, capital growth invested primarily in stocks and options." Investor #1 does not – and should not – have high risk tolerance in terms of her investment strategy. Investor #1 is an unsophisticated investor, with little knowledge about stocks and the market, and with no knowledge about options. Investor #1 does not understand complex securities products. However, PB indicated Investor #1 had one year of options experience and 20 years of stock experience. Investor #1 trusted PB to act as her financial expert and expected PB, acting in that role, to invest according to her financial profile. To the detriment of Investor #1, PB traded in high risk securities—options, and leveraged and inverse ETFs. Investor #1's losses attributable to options trading amounted to approximately $10,371.

23. **Quantitative Suitability.** Quantitative suitability requires a member or associated person to have a reasonable basis for believing that a series of recommended transactions, even if suitable when viewed in isolation, are not excessive and unsuitable for the customer. No single test defines excessive activity, but factors such as the turnover rate, the cost-equity ratio, and the use of in-and-out trading in a customer's account may provide a basis for a finding that a member or associated person has violated the quantitative suitability obligation.

24. Turnover ratio "measures the number of times per year the securities in an account are replaced by new securities, and is calculated by dividing the total dollar value of purchases in one year by the average equity." *Bresner*, 2013 SEC LEXIS 3511, at *285-286. For example, a turnover ratio of 10.2 in an account reflects that the investments in the account were replaced on average about ten times during the twelve-month period. While there is no definitive turnover ratio that establishes excessive trading, it has been generally recognized that an annual turnover ratio greater than six evidences excessive trading, and even turnover ratios between three and five have triggered liability for excessive trading. *Stein*, 2003 SEC LEXIS 338, at *16.

25. Cost-to-equity ratio "is calculated by determining the percentage return on the investor's average net equity needed to pay broker commissions and other expenses." *Bresner*, 2013 SEC LEXIS 3511, at *286-287. For example, a 16.5% % cost-to-equity ratio would mean the account would have to generate 16.5% in gain to break even before generating any income. Like turnover ratio, there is no definitive cost-to-equity ratio that establishes excessive trading, but cost-to-equity ratios as low as 8.7% have been considered indicative of excessive trading. *See Cody*, 2011 SEC LEXIS 1862, at *49 and *55 (finding cost-to-equity ratio of 8.7 percent excessive); *see also*, *Thomas F. Bandyk*,

Exchange Act Release No. 35415, 1995 SEC LEXIS 481, at *2–3 (Feb. 24, 1995) (finding cost-to-equity ratios ranging between 12.1% and 18% excessive).

26. **Quantitative Suitability as to Investor #1.** The Bureau determined that, to the detriment of Investor #1's account, while she was with AOS, PB's trading scheme involved excessive trading in her account and had an annualized turnover ratio of 6.64 as well as a cost-to-equity ratio of 14.09% (excluding cash holdings). As noted, a turnover ratio of six is generally recognized as indicating excessive trading. A cost-to-equity ratio of 14.09% means that the account would have to earn 14.09% just to break even.

**Investment Advisor Fraud.**

27. RSA 421-B:5-502(a) states "It is unlawful for any person that advises others for compensation, either directly or indirectly or through publications or writings, as to the value of securities or the advisability of investing in, purchasing, or selling securities or that, for compensation and as part of a regular business, issues or promulgates analyses or reports relating to securities: (1) to employ a device, scheme, or artifice to defraud another person; or (2) to engage in an act, practice, or course of business that operates or would operate as a fraud or deceit upon another person." Further, RSA 421-B:5-502(b)(2) states that "[a] person who is an investment adviser or investment adviser representative is a fiduciary and has a duty to act primarily for the benefit of the person's clients. While the extent and nature of this duty varies according to the nature of the relationship between an investment adviser and the clients and the circumstances of each case, an investment adviser or investment adviser representative shall not engage in unethical business practices which constitute violations of subsection (a), including the following:

> (A) Recommending to a client to whom investment supervisory, management, or consulting services are provided the purchase, sale, or exchange of any security without reasonable grounds to believe that the recommendation is suitable for the client on the basis of information furnished by the client after reasonable inquiry concerning the client's investment objectives, financial situation and needs, and any other information known by the investment adviser or investment adviser representative.
>
> (C) Introducing trading in a client's account that is excessive in size or frequency in view of the financial resources, investment objectives, and character of the account in light of the fact that an adviser in such situations can directly benefit from the number of securities transactions effected in a client's account. Subsection (b)(2)(B) appropriately forbids an excessive number of transaction orders to be induced by an investment adviser or investment adviser representative for a client's account.

28. The accountholders of the 80 accounts described in paragraphs 1-26 above were investment advisor clients to which PB and Scanwoood owed a fiduciary duty. Based

on the allegations contained in paragraphs 1-26 above, PB and Scanwood breached its fiduciay duty to these clients.

**Lack of Supervision**

29. **Supervisory System.** FINRA Rule 3110 states that "Each member shall establish and maintain a system to supervise the activities of each associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable FINRA rules. Final responsibility for proper supervision shall rest with the member."

30. **Options Trading.** FINRA Rule 2360, which governs options trading, states "No member or person associated with a member shall accept an order from a customer to purchase or write an option contract relating to an options class that is the subject of an options disclosure document, or approve the customer's account for the trading of such option, unless the broker or dealer furnishes or has furnished to the customer the appropriate options disclosure document(s) and the customer's account has been approved for options trading in accordance with the provisions of subparagraphs (B) through (D) hereof."

31. **General Options Supervision.** FINRA Rule 2360 further directs that "No member or person associated with a member shall recommend to a customer an opening transaction in any option contract unless the person making the recommendation has a reasonable basis for believing, at the time of making the recommendation, that the customer has such knowledge and experience in financial matters that he may reasonably be expected to be capable of evaluating the risks of the recommended transaction, and is financially able to bear the risks of the recommended position in the option contract."

32. **AOS Compliance.** AOS had supervisory compliance procedures and policies in place that are supposed to be designed to supervise the conduct of its agents and prevent the type of fraudulent option and leveraged and inverse ETF trading that occurred in All Client Accounts. AOS's compliance manuals address this requirement in section 7 on transaction processing. All transactions must be sent to the home office for execution, review and approval. According to the procedure, suitability reviews should be conducted by principals who will approve or reject representative recommendations and determine if they meet stated investment objectives. Excessive trading is prohibited and turnover ratio and in-and-out trading are factors in determining excessive trading. Particularly, since PB was in an advisory relationship with his clients, purchase and exchange of securities should have been in the best interest of the customers. According to the compliance procedures, there should be special care taken when making trades for seniors. Trading reports are to be reviewed for excessive trading. Had AOS followed its own compliance procedures and policies, AOS would have discovered the fraudulent option and leveraged and inverse ETF trading by PB. AOS failed to fulfill its supervisory and compliance obligations with respect to All Client Accounts.

33. AOS, like all broker-dealers, is required to supervise the conduct of its agents, also known as registered representatives. Supervision is meant to ensure compliance with,

among other things, the New Hampshire Uniform Securities Act and FINRA Rules. Section IX of The Independent Representative Agreement signed on February 6, 2015 between PB and AOS states, in pertinent part:

> Company enters into this Agreement for the sole purpose of retaining Contractor to engage in securities transactions. Company has no right to control or direct Contractor in the sales of securities, the results to be accomplished by the sales, or the details and means by which the result is accomplished, **except that Company shall have the responsibility and right to perform such supervisory tasks as required by the governing Rules and Regulations.**

(Emphasis added). Further, Section XIII of the Independent Representative Agreement states:

> The Written Supervisory Procedures Manual ("Manual") contains operational Rules and Regulations required by the various regulatory agencies including the SEC, FINRA, and state regulators as well as Company policy.
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> A. Contractor's failure to comply with the provisions of the Policy and Procedures Manual constitutes a material breach of this Agreement.
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> B. The Policy and Procedures Manual, as published (modified and amended from time to time), is incorporated into this contract by reference as though fully set forth.
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> C. By the execution of this Agreement, Contractor hereby certifies that he/she has read this Manual and consents to abide by its provisions.
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> D. In keeping with such Rules and Regulations, the Company and any person appointed by the Company to act for it and on its behalf, shall at all times have full and uninhibited access to Contractor's premises, as well as the right to review, audit, inspect or examine and make copies at Contractor's premises of Contractor's Customers' account books and records and financial books; Contractor's own records, including tax returns; Contractor's corporate and financial books and records; and other books, records and properties that relate in any way to this Agreement; and to discuss Contractor's affairs, finances and accounts with the officers of Contractor and Contractor's independent certified public accountants as often as may be reasonably requested by the Company.

34. AOS's compliance manual, under the heading "Qualification of Customers," notes that "[b]ecause options transactions may have greater complexity and may involve greater risks than many other securities transactions, each registered representative must exercise due diligence to ensure that the customer is suitable for options transactions."

35. AOS's compliance manual continues soon after—aligning with FINRA Rule 2360—and states: "Before an order for a listed options transaction may be accepted for any account, the New Account Application must be completed and signed by the customer. The Application must be approved by an Options Principal and a Senior Principal or designated ROSFP[2] and on file prior to execution of any options transactions, and electronic or paper copies of that approval must be retained at the branch office servicing the customer and in the Firm's centralized files (if separate). In addition, the customer must sign and return the Option Agreement prior to the execution of the first options transaction."

36. AOS additionally prescribes certain standards to determine the trading capabilities of customers who trade options. Compliance manuals and Written Supervisory Procedures of AOS lay out six levels of options trading. Each level of options trading prescribes a specific trading capability, investment experience, account minimum for margin, minimum income requirement, minimum net worth, and investment objective.

37. AOS's compliance manual further directs that: "Any principal designated as a ROSFP has authority and responsibility of all customer equity, debt, index and foreign currency options accounts and related options transactions. A ROSFP may delegate certain duties to other ROSFPs for day-to-day supervision of all option activities. Oversight and supervisory responsibility for options accounts and related transactions include the following:

- Performs the following basic reviews and quality controls on a consistent basis (at least quarterly):
- Reviews options transactions by customers, focusing on:
  - Large orders.
  - Inappropriate transactions in custodian accounts.
  - Deviations of system/policy defined safeguards at best efforts.
- Reviews the accounts and background information of selected clients whose options positions appear on exception rep
- Conducts spot check reviews of New Account Applications from various branch offices to ascertain that the forms are being completed properly.
- Reviews management information reports for accounts whose trades exceed the approval level for which the account is approved."

38. As AOS's own compliance manual makes clear with the necessary approvals, standards, and disclosures before a registered representative can undertake options trading on behalf of a customer, options trading is suitable only for investors who can afford to bear a high degree of financial risk, understand such risks, and are able to sustain the costs and financial losses that may be associated with options trading. PB, the person recommending options transactions, also needs to understand the risks and costs of the product.

[2] Registered Options and Security Futures Principal.

39. Investor #1 did not understand options trading in a general sense, underscoring the fact that she did not understand any risks associated with options trading. And based on the Bureau's analysis of his option trading activity, and the significant losses incurred, coupled with PB's sworn testimony before the Bureau, PB clearly did not understand the risks and costs of trading in options, and did not understand the products themselves.

40. AOS, by way of its Registered Options Principal, approved All Client Accounts to trade in options. As part of the Account Application form, in approving PB's clients to trade in options, the Registered Options Principal indicated, among other things, that PB was the assigned registered representative.

41. There is no indication in the records provided by the Respondents that a Registered Options Principal other than the Registered Options Principal who accepted the accounts reviewed the approval of PB's clients' accounts to trade in options. Consequently, there is no indication in the records provided by the Respondent that a Registered Options Principal other than the Registered Options Principal who accepted the accounts made a determination that she/he had a reasonable basis for believing that the customer was able to understand and bear the risk of the strategies or transactions proposed by PB. Beyond approving the Account Application, it clear AOS did not undergo any approval or supervision of PB's options trading strategy.

42. There is no evidence that AOS performed adequate oversight of PB's option trading as prescribed by its compliance manual and Written Supervisory Procedures. *See* ¶37 above. Such oversight was required to have included, at minimum on a quarterly basis, a review of option transactions by customers, large orders, inappropriate transactions, and deviations of systems/policy defined safeguards. Furthermore, there is no evidence that AOS performed adequate oversight of PB's trading of inverse and leveraged ETFs

## STATEMENTS OF LAW

II. The unlawful conduct described in this Staff Petition spans the "Relevant Period" January 2015 to November 2017. The staff of the Bureau hereby petitions the Director and makes the following statements of law under the New Hampshire Revised Statutes Annotated, RSA 421-B, and regulations thereunder in effect both before and after the reenactment of RSA 421-B effective January 1, 2016:

1. PB, Scanwood and AOS are "persons" within the meaning of RSA 421-B:2, XVI (prior to January 1, 2016) and RSA 421-B:1-102(39) (on or after January 1, 2016).

2. AOS is a broker-dealer within the meaning of RSA 421-B:2, III (prior to January 1, 2016) and RSA 421-B:1-102(6) (on or after January 1, 2016).

3. PB is a broker-dealer agent of AOS within the meaning of RSA 421-B:2, II (prior to January 1, 2016) and RSA 421-B:1-102(3) (on or after January 1, 2016).

4. Scanwood is an investment adviser within the meaning of RSA 421-B:2, IX (prior to January 1, 2016) and RSA 421-B:1-102(26) (on or after January 1, 2016).

5. PB is an investment adviser representative of Scanwood within in the meaning of RSA 421-B:2, IX-a (prior to January 1, 2016) and RSA 421-B:1-102(27) (on or after January 1, 2016).

6. The options and inverse and leveraged ETFs described in Section I, Paragraphs 1 – 42 are securities as defined by RSA 421-B:2, xx (prior to January 1, 2016) and RSA 421-B:1-102(53)(A) (on or after January 1, 2016).

7. Pursuant to RSA 421-B:26, III-a (prior to January 1, 2016) and RSA 421-B:4-412(h) (on or after January 1, 2016), every person who directly or indirectly controls a person liable under paragraph I, II, or III every partner, principal executive officer, or director of such person, every person occupying a similar status or performing a similar function, who materially aids in the acts or transactions constituting the violation, either knowingly or negligently, may, upon hearing, and in addition to any other penalty provided for by law, be subject to such suspension, revocation, or denial of any registration or license, including the forfeiture of any application fee, or an administrative fine not to exceed $2,500, or both. AOS is subject to this provision and, should PB be found liable for any violations alleged herein, AOS should also be found liable as a control person and subject to a suspension or revocation of their license as a control person of PB, as well as subject to a fine of up to $2,500 for every violation of PB.

**Customer-specific Suitability**

8. Pursuant to RSA 421-B:3-a (prior to January 1, 2016) and RSA 421-B:5-501(b) (on or after January 1, 2016), in recommending to a customer the purchase, sale or exchange of a security, a broker-dealer or broker-dealer agent must have reasonable grounds for believing that the recommendation is suitable for the customer. As described in Section I, Paragraphs 19 – 20, PB and AOS violated these provisions as to Investor #1.

**Violation of FINRA Rules**

9. Pursuant to RSA 421-B:8, X (prior to January 1, 2016) and RSA 421-B:4-406(k) (on or after January 1, 2016), persons licensed under RSA 421-B to conduct securities business shall abide by the rules of the Securities and Exchange Commission and other self-regulating organizations (e.g., FINRA) which have jurisdiction over the licensee, which set forth standards of conduct in the securities industry.

    A. FINRA Rule 2111(a) requires a member, which includes a person associated with a member, to have a reasonable basis to believe that a recommended transaction or investment strategy is suitable for a customer. Specifically, Rule 2111 consists of three main obligations: reasonable basis suitability, customer-specific suitability, and quantitative suitability. Further, to fulfill the reasonable basis obligation, an associated person must understand "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.*" FINRA Rule 2111, Supplementary Material 2111.05 (emphasis added). A violation of FINRA Rule 2111 constitutes a violation of FINRA Rule 2010, which requires a member, which includes a person associated with a member, to observe high standards of commercial honor and just and equitable principles of trade. As described in Section I, Paragraphs 9 – 18, PB and AOS violated FINRA Rule 2111(a) as to All Client Accounts, and thus, violated FINRA Rule 2010.

B. FINRA Rule 2360 requires members to supervise accounts where options are traded and states that "No member or person associated with a member shall recommend to a customer an opening transaction in any option contract unless the person making the recommendation has a reasonable basis for believing, at the time of making the recommendation, that the customer has such knowledge and experience in financial matters that he may reasonably be expected to be capable of evaluating the risks of the recommended transaction, and is financially able to bear the risks of the recommended position in the option contract." A violation of FINRA Rule 2360 constitutes a violation of FINRA Rule 2010, which requires a member, which includes a person associated with a member, to observe high standards of commercial honor and just and equitable principles of trade. As described in Section I, Paragraphs 15 – 22 and 29 – 42, AOS and PB violated FINRA Rule 2360 as to All Client Accounts, and thus, violated FINRA Rule 2010.

C. FINRA Rule 3110 requires a member to establish and maintain a system to supervise the activities of each associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable FINRA rules. A violation of FINRA Rule 3110 constitutes a violation of FINRA Rule 2010, which requires a member, which includes a person associated with a member, to observe high standards of commercial honor and just and equitable principles of trade As described in Section I, Paragraphs 1 – 42, AOS failed to supervise PB's trading as required by FINRA Rule 3110, and thus, violated FINRA Rule 2010.

**Securities Fraud**

10. Pursuant to RSA 421-B:3 (prior to January 1, 2016) and RSA 421-B:5-501(a) (on or after January 1, 2016), it is unlawful for any person, in connection with the offer, sale, or purchase of any security, directly or indirectly: (1) To employ any device, scheme, or artifice to defraud; (2) To make any untrue statement of a material fact or 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; or (3) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person. As described in Section I, Paragraphs 23 – 26, it constitutes a device, scheme, or artifice to defraud within the meaning of this section for any person to induce excessive trading in a customer's account as to Investor #1. PB and Scanwood violated this section by engaging in excessive trading. AOS, as control person of PB, who materially aided in the trading conduct

described Section I, Paragraphs 23 – 26 is liable for PB's violations of RSA 421-B:3 (and RSA 421-B:5-505(a)) described in this Paragraph 12.

**Investment Adviser Fraud**

11. Pursuant to RSA 421-B:4(V)(a) (prior to January 1, 2016) and RSA 421-B:5-502(2) (on or after January 1, 2016), fraud involving investment advice, a person who is an investment adviser or a investment adviser representative is a fiduciary and has a duty to act primarily for the benefit of the person's clients. While the extent and nature of this duty varies according to the nature of the relationship between an investment adviser and the clients and the circumstances of each case, an investment adviser or investment adviser representative shall not engage in unethical business practices which constitutes violations of subsection (a) including the following: [r]ecommending to a client to whom investment consulting services are provided the purchase, sale, or exchange of any security without reasonable grounds to believe that the recommendation is suitable for the client on the basis of information furnished by the client after reasonable inquiry concerning the client's investment objectives, financial situation and needs, and any other information known by the investment adviser or investment adviser representative. As described in Section I, Paragraphs 1 – 28, Scanwood and PB violated RSA 421-B:4(V)(a) (and RSA 421-B:5-502(2)) by engaging in uninformed, erratic, and costly trading options and inverse and leveraged ETFs in All Client Accounts.

**Penalties/Sanctions**

12. Pursuant to RSA 421-B:10, I(a) and (b)(10) (prior to January 1, 2016) and RSA 421-B:4-412(d)(9) (on or after January 1, 2016), the secretary of state may by order deny, suspend, or revoke any license or application if he finds that it is in the public interest and that the applicant or licensee has failed to reasonably supervise his agents if he is a broker-dealer. As described in Section I, Paragraphs 1 – 42, AOS is subject to this provision and should have its broker-dealer license suspended or revoked for failing to supervise PB's trading of options and inverse and leveraged ETFs as to All Client Accounts.

13. RSA 421-B:10, I(a) and (b)(2) (prior to January 1, 2016) and RSA 421-B:4-412(d)(2) (on or after January 1, 2016) allows the secretary of state to deny, suspend, or revoke any license or application if he finds that it is in the public interest and that the applicant or licensee has willfully violated or failed to comply with any provision of RSA 421-B, or the Securities Act of 1933, the Securities Exchange Act of 1934, or any rule under any of such statutes. As described in Section I, Paragraphs 1 – 42:

    A. AOS is subject to this provision and should have its broker-dealer license suspended or revoked for willfully violating RSA 421-B.

    B. PB is subject to this provision and should be permanently barred from securities licensure in any capacity with the Bureau for failing to comply with RSA 421-B.

C. Scanwood is subject to this provision and should be permanently barred from securities licensure in any capacity with the Bureau for failing to comply with RSA 421-B.

14. Pursuant to RSA 421-B:10, I(a) and (b)(7) (prior to January 1, 2016) and RSA 421-B:4-412(d)(13) (on or after January 1, 2016), the secretary of state may by order deny, suspend, or revoke any license or application if he finds that it is in the public interest and that the applicant or licensee has engaged in dishonest or unethical practice in the securities business. As described in Section I, Paragraphs 1 – 42:

A. AOS is subject to this provision and should have its broker-dealer license suspended or revoked for engaging in dishonest or unethical practice in the securities business.

B. PB is subject to this provision and should be permanently barred from securities licensure in any capacity with the Bureau for engaging in dishonest or unethical practice in the securities business.

C. Scanwood is subject to this provision and should be permanently barred from securities licensure in any capacity with the Bureau for engaging in dishonest or unethical practice in the securities business.

15. Pursuant to RSA 421-B:26, I (prior to January 1, 2016) and RSA 421-B:6-604(d) (on or after January 1, 2016), the secretary of state may, upon hearing, assess an administrative fine of not more than $2,500 per violation. Subject to this provision:

A. PB and Scanwood should be fined $200,000 for the investment advisor fraud as to options in All Client Accounts[3] and for $172,500 for the investment advisor fraud as to inverse and leveraged ETFs in 69 client accounts,[4] for a total fine of $372,500.

B. As control person, AOS should be fined $200,000 for the unsuitable options trading in All Client Accounts,[5] $172,500 for the unsuitable inverse and leveraged ETF trading in 69 client accounts,[6] and as supervisor, AOS should be fined $200,000 for failing to supervise All Client Accounts, for a total fine of $572,500.

16. Pursuant to RSA 421-B:23 (prior to January 1, 2016), whenever it appears to the secretary of state that any person has engaged or is about to engage in any act or practice 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. PB, Scanwood, and AOS are subject to this section and should be ordered to cease and desist the violative conduct identified herein.

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[3] $2,500 fine multiplied by 80 accounts.
[4] $2,500 fine multiplied by 69 accounts.
[5] $2,500 fine multiplied by 80 accounts.
[6] $2,500 fine multiplied by 69 accounts.

17. Pursuant to RSA 421-B:26, III (prior to January 1, 2016) and RSA 421-B:6-604(a) (on or after January 1, 2016), any person who, either knowingly or negligently, violates any provisions of this chapter may, upon hearing, and in addition to any other penalty provided for by law, be subject to such suspension, revocation or denial of any registration or license, or an administrative fine not to exceed $2,500, or both. Each of the acts specified shall constitute a separate violation. PB, Scanwood, and AOS are subject to a suspension or revocation and a fine as to each violative customer transaction.

18. Pursuant to RSA 421-B:6-604(a) (on or after January 1, 2016), if the secretary of state determines that a person has, is, or is about to materially aid in an act, practice, or course of business constituting a violation of this chapter, the secretary of state may issue an order directing the person to cease and desist from engaging in an act, practice, or course of business or to take other action necessary or appropriate to comply with this chapter. AOS, PB and Scanwood are subject to this section and should be required to cease and desist from engaging in the conduct as described in the Statement of Facts for violations of RSA 421-B:3 (prior to January 1, 2016) and 421-B:5-501 (on or after January 1, 2016), RSA 421-B:4(V)(a) (prior to January 1, 2016) and RSA 421-B:5-502(2) (on or after January 1. 2019), RSA 421-B:10, I(a) and (b)(10) (prior to January 1, 2016) and RSA 421-B:4-412(d)(9) (on or after January 1, 2016), RSA 421-B:26, III-a (prior to January 1, 2016) and RSA 421-B:4-412(h) (on or after January 1, 2016), and RSA 421-B:8, X (prior to January 1, 2016) and RSA 421-B:4-406(k) (on or after January 1, 2016).

19. Pursuant to RSA 421-B:26, V (prior to January 1, 2016) and RSA 421-B:6-604(e) (on or after January 1, 2016), the secretary of state can order Respondents to pay restitution of $317,969[7] to the investors, and in the amounts, listed in Exhibit A. PB, Scanwood, and AOS are subject to this provision and should be ordered to pay restitution as described in Exhibit A.

20. Pursuant to RSA 421-B:22 (prior to January 1, 2016) and RSA 421-B:6-604(g) (on or after January 1, 2016), in any investigation to determine whether any person has violated any rule or order under this title, the secretary of state shall be entitled to recover the costs of the investigation. Scanwood, PB and AOS are subject to this provision and should be ordered to pay the Bureau's costs.

## RELIEF REQUESTED

III. In view of the foregoing, the Bureau staff makes the following requests for relief, as permitted under RSA 421-B, the New Hampshire Uniform Securities Act:

1. Find as fact the allegations contained in Section I above;

2. Make conclusions of law, based upon Section II above, as applied to the facts stated in Section I above;

[7] Losses attributable to options trading totals $243,940. Losses attributable to inverse and leveraged ETF trading totals $74,028.

3. Pursuant to RSA 421-B:6-604(a) and RSA 421-B:23 continue the Order to Cease and Desist against Respondents for violations of the New Hampshire Uniform Securities Act;

4. Pursuant to RSA 421-B:6-604(d), RSA 421-B:26, III, and RSA 421-B:26, III-a, issue a registration and licensure suspension, revocation or bar against Respondents for violations of the New Hampshire Uniform Securities Act;

5. Pursuant to RSA 421-B:6-604(d), RSA 421-B:26, III, and RSA 421-B:26,III-a, assess an administrative fine against AOS in the amount of $572,500;

6. Pursuant to RSA 421-B:6-604(d), RSA 421-B:26, III, and RSA 421-B:26,III-a, assess an administrative fine against PB and Scanwood in the amount of $372,500;

7. Pursuant to RSA 421-B:6-604(e) (on or after January 1, 2016) and RSA 421-B:26, V (prior to January 1, 2016), order Respondents to pay restitution of $317,969 to the investors, and in the amounts, listed in Exhibit A;

8. Pursuant to RSA 421-B:6-604(g) and RSA 421-B:22 assess costs of this investigation to be determined by the Hearing Examiner against Respondents jointly and severally;

9. Provide such relief as deemed just and proper under the New Hampshire Uniform Securities Act.

## RIGHT TO AMEND

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

Respectfully submitted by:

Jeffrey D. Spill, Deputy Director — Date: 2/22/2021

Noah A. Abrahams, Staff Attorney — Date: 2/22/2021

Eric A. Forcier, Staff Attorney — Date: 2/22/2021

**EXHIBIT A**

| Investor No. | Account Number | Option Profit and Loss | Inverse / Leveraged ETF Proft and Loss |
|---|---|---|---|
| Investor 1 | 3OD08608 | $ (10,370.72) | $ 411.29 |
| Investor 2 | 3OD09627 | $ (5,630.83) | $ (840.00) |
| Investor 3 | 3OD09473 | $ (59.89) | $ (79.91) |
| Investor 4 | 3OD09682 | $ (3,392.13) | $ (1,193.89) |
| Investor 5 | 3OD09329 | $ (1,164.44) | $ - |
| Investor 6 | 3OD09764 | $ (3,690.15) | $ (1,846.52) |
| Investor 7 | 3OD09740 | $ (7,038.81) | $ (1,759.96) |
| Investor 8 | 3OD09711 | $ (6,679.20) | $ (4,631.67) |
| | 3OD09712 | $ (427.79) | $ 2,103.80 |
| Investor 9 | 3OD09837 | $ (1,765.88) | $ (1,193.89) |
| Investor 10 | 3OD09977 | $ (2,872.16) | $ 53.89 |
| Investor 11 | 3OD09481 | $ (1,125.88) | $ (1,042.91) |
| Investor 12 | 3OD09443 | $ (3,088.95) | $ (1,014.90) |
| | 3OD09444 | $ (1,972.60) | $ 282.24 |
| | 3OD09442 | $ (365.01) | $ (337.95) |
| Investor 13 | 3OD09953 | $ (5,716.97) | $ (199.07) |
| Investor 14 | 3OD09893 | $ (8,346.24) | $ (2,042.94) |
| | 3OD09892 | $ 31.76 | $ - |
| Investor 15 | 3OD09750 | $ (7,280.61) | $ (1,291.96) |
| Investor 16 | 3OD09371 | $ 212.09 | $ 466.59 |
| | 3OD09363 | $ (2,875.68) | $ - |
| Investor 17 | 3OD09835 | $ (5,241.20) | $ (1,652.41) |
| Investor 18 | 3OD13154 | $ (1,149.71) | $ (731.75) |
| | 3OD09441 | $ (9,623.52) | $ (1,953.01) |
| Investor 19 | 3OD09466 | $ (148.63) | $ - |
| Investor 20 | 3OD09413 | $ (538.97) | $ 2,529.00 |
| | 3OD09417 | $ (9,266.30) | $ (2,298.12) |
| Investor 21 | 3OD09643 | $ (6,195.54) | $ (2,580.20) |
| Investor 22 | 3OD08904 | $ 287.31 | $ (386.64) |
| | 3OD08879 | $ (6,103.28) | $ (2,274.12) |
| Investor 23 | 3OD09816 | $ (1,176.53) | $ 258.04 |
| Investor 24 | 3OD09352 | $ (7,298.10) | $ (2,397.71) |
| Investor 25 | 3OD09742 | $ (2,896.05) | $ (1,390.17) |
| Investor 26 | 3OD09435 | $ (5,042.83) | $ (2,016.81) |
| Investor 27 | 3OD09476 | $ (4,299.61) | $ (2,114.88) |
| Investor 28 | 3OD09744 | $ (1,319.97) | $ (754.23) |
| Investor 29 | 3OD09005 | $ (298.67) | $ (7.47) |
| Investor 30 | 3OD09819 | $ (1,491.08) | $ (1,402.71) |
| | 3OD09823 | $ (485.98) | $ 258.04 |
| Investor 31 | 3OD08773 | $ 291.19 | $ (591.56) |
| Investor 32 | 3OD11510 | $ (2,812.04) | $ (1,113.04) |
| Investor 33 | 3OD12636 | $ (861.41) | $ (401.75) |
| Investor 34 | 3OD10448 | $ (356.05) | $ - |
| Investor 35 | 3OD09368 | $ (321.46) | $ 1,376.78 |
| | 3OD09370 | $ (1,119.45) | $ 586.24 |

**EXHIBIT A**

| Investor No. | Account Number | Option Profit and Loss | Inverse / Leveraged ETF Proft and Loss |
|---|---|---|---|
| | 3OD09364 | $ (4,561.73) | $ (4,231.06) |
| Investor 36 | 3OD08774 | $ (7,980.28) | $ (890.89) |
| Investor 37 | 3OD09426 | $ (2,878.19) | $ (1,710.08) |
| | 3OD09424 | $ (864.17) | $ - |
| Investor 38 | 3OD10717 | $ (5,341.38) | $ 654.11 |
| Investor 39 | 3OD08849 | $ (4,817.88) | $ 3,070.46 |
| | 3OD10965 | $ (4,895.32) | $ (2,298.12) |
| Investor 40 | 3OD09436 | $ (430.15) | $ (337.95) |
| Investor 41 | 3OD09746 | $ (4,425.52) | $ (1,988.86) |
| | 3OD09968 | $ (360.52) | $ - |
| Investor 42 | 3OD11680 | $ (1,064.95) | $ (612.85) |
| Investor 43 | 3OD08690 | $ (683.94) | $ 258.04 |
| Investor 44 | 3OD08821 | $ (7,752.42) | $ (5,361.50) |
| | 3OD08859 | $ (3,334.08) | $ 5,086.07 |
| | 3OD08860 | $ (72.77) | $ - |
| Investor 45 | 3OD13457 | $ (106.58) | $ (63.80) |
| Investor 46 | 3OD08622 | $ (3,293.63) | $ (806.65) |
| Investor 47 | 3OD10292 | $ 223.52 | $ 258.04 |
| Investor 48 | 3OD10348 | $ (6,229.02) | $ 1,048.33 |
| | 3OD10347 | $ (2,987.32) | $ 424.90 |
| Investor 49 | 3OD08877 | $ (5,001.81) | $ (3,096.22) |
| | 3OD08878 | $ (892.24) | $ 951.88 |
| | 3OD09021 | $ (4,159.11) | $ 424.90 |
| Investor 50 | 3OD09783 | $ (5,120.42) | $ (2,354.76) |
| Investor 51 | 3OD09701 | $ (2,504.27) | $ (2,754.16) |
| Investor 52 | 3OD08802 | $ (774.12) | $ - |
| Investor 53 | 3OD09631 | $ (1,210.90) | $ (79.91) |
| Investor 54 | 3OD09478 | $ (5,685.90) | $ (2,100.79) |
| | 3OD09477 | $ 1,547.70 | $ - |
| Investor 55 | 3OD09327 | $ (3,624.19) | $ (2,759.61) |
| Investor 56 | 3OD09433 | $ (8,456.82) | $ (557.41) |
| Investor 57 | 3OD12381 | $ (1,721.44) | $ (401.75) |
| Investor 58 | 3OD09950 | $ (178.62) | $ - |
| Investor 59 | 3OD09812 | $ (497.55) | $ (79.91) |
| Investor 60 | 3OD09810 | $ (122.68) | $ 258.04 |
| | **Totals** | $ (243,940.24) | $ (74,028.43) |

**Grand Total** $ (317,968.67)

*Our experts have indicated missing settled trade data for March 8 & 10, 2016. Such data is forthcoming, and may slightly adjust losses for impacted accounts.