



STATE OF MISSOURI
OFFICE OF SECRETARY OF STATE

IN THE MATTER OF:)
)
RAYMOND JAMES & ASSOCIATES, INC.,) Case No.: AP-23-09
CRD No. 705,)
)
Respondent.)

CONSENT ORDER

1. The Missouri Securities Division of the Office of Secretary of State (“**Securities Division**”), through the Securities Division’s Enforcement Section (“**Enforcement Section**”) and Enforcement Counsel William F. H. Dunker alleges that for at least a period of nineteen (19) months, from December 1, 2018 to June 23, 2020 (the “**Relevant Period**”), Raymond James & Associates, Inc. (“**Raymond James**”, the “**Firm**”, or “**Respondent**”) failed to supervise at least one of its former broker-dealer agents in the St. Louis office (“**Agent**”) who engaged in discretionary trading in at least five (5) non-discretionary customer accounts without obtaining prior customer authorization. Specifically, the Enforcement Section alleges that, during the Relevant Period, Raymond James repeatedly ignored red flags and, despite the Firm’s awareness of facts detailing the unauthorized and excessive trading activities of Agent, failed to reasonably take corrective action against Agent to safeguard the accounts of its customers from potential harm. The Enforcement Section also alleges that the Firm’s written supervisory procedures in effect at the time did little more than recite the applicable rules and did not adequately communicate to supervisory staff the steps the Firm would take when potential regulatory issues were identified. These deficiencies contributed to the overall failure by the Firm to reasonably supervise Agent and potentially other registered representatives in the Firm’s St. Louis office during the Relevant Period. The Enforcement Section further alleges that the foregoing actions by Respondent are in contravention of 15 CSR 30-51.171 and constitute sufficient grounds to sanction Respondent in accordance with Sections 409.4-412(c) and 409.4-412(d)(9).¹
2. Respondent and the Enforcement Section desire to settle the allegations raised in this matter by the Enforcement Section relating to the alleged violation of 15 CSR 30-51.171.

¹ Unless otherwise indicated, statutory citations refer to the 2016 edition of the Revised Statutes of Missouri, updated by the 2021 Cumulative Supplement.

CONSENT TO JURISDICTION

3. Respondent and the Enforcement Section stipulate and agree that the Missouri Commissioner of Securities (“**Commissioner**”) has jurisdiction over Respondent and this matter pursuant to the Missouri Securities Act of 2003, Chapter 409, *et seq.*
4. Respondent and the Enforcement Section stipulate and agree that the Commissioner has authority to enter this Order pursuant to Section 409.6-604(h), which provides:

“The commissioner is authorized to issue administrative consent orders in the settlement of any proceeding in the public interest under this act.”

WAIVER AND EXCEPTION

5. Respondent waives any rights to a hearing with respect to this matter.
6. Respondent waives any rights that it may have to seek judicial review or otherwise challenge or contest the terms and conditions of this Order. Respondent specifically forever releases and holds harmless the Missouri Office of the Secretary of State, Secretary of State, Commissioner, and their respective representatives and agents from any and all liability and claims arising out of, pertaining to, or relating to this matter.
7. Respondent stipulates and agrees with the Enforcement Section that, should the facts contained herein prove to be false or incomplete, the Enforcement Section reserves the right to pursue any and all legal or administrative remedies at its disposal.

CONSENT TO COMMISSIONER’S ORDER

8. Respondent and the Enforcement Section stipulate and agree to the issuance of this Consent Order without further proceedings in this matter, agreeing to be fully bound by the terms and conditions specified herein.
9. Respondent agrees not to take any action or to make or permit to be made any public statement creating the impression that this Order is without factual basis. Nothing in this paragraph affects Respondent’s (a) testimonial obligations; (b) right to take legal or factual positions in defense of litigation or in defense of other legal proceedings in which the Commissioner is not a party; or (c) right to make public statements that are factual.
10. Respondent agrees that it is not the prevailing party in this action since the parties have reached a good faith settlement.
11. Respondent neither admits nor denies the allegations made by the Enforcement Section, but consents to the Commissioner’s Findings of Fact, Conclusions of Law and Order as set forth herein, solely for the purpose of resolving this proceeding and any proceeding that may be brought to enforce this Order, and no other purpose.

THE COMMISSIONER’S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

I. FINDINGS OF FACT

A. Respondent

12. Raymond James is a broker-dealer (“**BD**”) and investment adviser (“**IA**”) headquartered in St. Petersburg, Florida. The Firm has been a Missouri-registered broker-dealer since 1983 and has operated as a federal covered investment adviser in Missouri since October 1987. Raymond James is a wholly owned subsidiary of Raymond James Financial, Inc. a publicly held corporation traded on the New York Stock Exchange. Raymond James has a branch office located in St. Louis, Missouri.

B. Background

13. On January 7, 2022, a former investment adviser representative and broker agent² employed with the St. Louis office of Raymond James executed an Acceptance, Waiver, and Consent (“**AWC**”) with FINRA for the purpose of settling allegations against Agent involving, among other things, the exercise of trading discretion without prior written authorization in five (5) customer accounts. According to the AWC, for a period of eighteen months — from January 1, 2019 through July 9, 2020 — Agent allegedly exercised such discretion on 1,519 occasions in the accounts, in violation of NASD³ Rule 2510(b) and FINRA Rules 3260 and 2010. Without admitting or denying the allegations, Agent consented to a one-month suspension from association with any FINRA member in any capacity and a \$5,000 fine. The AWC was accepted by FINRA on January 13, 2022. Raymond James was not a party to the AWC and has no knowledge as to its finding.
14. On January 18, 2022, the Registration Section of the Missouri Securities Division (“**Registration Section**”) received notice of the AWC involving Agent from Agent’s new employer (“**New Firm**”), another Missouri-based broker-dealer and investment adviser. The notice represented one of several key obligations contained in a three-year plan of heightened supervision⁴ to which New Firm and Agent had formally agreed with the Securities Division, as a condition for the Securities Division’s approval of Agent’s Missouri registrations⁵ with New Firm. The Registration Section referred the AWC to the Enforcement Section with a recommendation to investigate the alleged activities of Agent and suspend Agent’s applicable Missouri registrations contemporaneous with Agent’s FINRA suspension.
15. On February 1, 2022, Agent entered into a consent order with the Enforcement Section, which was approved and issued by the Commissioner that same day.⁶ Agent was suspended from operating as an investment adviser representative and (broker) agent in the State of Missouri

² At the time, Agent was a thirty-seven-year veteran of the financial services industry.

³ NASD is the abbreviation for National Association of Securities Dealers, which is the former name of the self-regulatory organization currently known as Financial Industry Regulatory Authority, Inc. (FINRA).

⁴ The plan for heightened supervision was executed by Agent and Agent’s supervisor at New Firm on October 16, 2020, and the Securities Division approved Agent’s registrations on October 19, 2020.

⁵ Agent was registered in Missouri as both an investment advisor representative and (broker-dealer) agent.

⁶ See Consent Order issued in Matter No. AP-22-03 at <https://www.sos.mo.gov/CMSImages/Securities/AP-22-03.pdf>

for a period of one (1) month and paid \$2,500 to the Missouri Secretary of State’s Investor Education and Protection Fund, in accordance with Sections 409.4-412(b), 409.4-412(c) and 409.4-412(d)(5)(C).⁷

16. After finalizing the consent order with Agent, the Enforcement Section, given the number of instances and the duration of Agent’s alleged activities referenced in the AWC, turned its attention to investigating the supervisory system of the Firm, with an emphasis on determining whether the system, during the period January 1, 2019 through July 9, 2020, was reasonably designed to achieve compliance by the registered representatives in the Firm’s St. Louis office with applicable laws, rules and regulations.⁸

C. Allegations of Violative Conduct

1. Failure to Supervise

17. On December 14, 2018, the Firm’s Chicago-based Divisional Compliance Manager sent an email to two individuals in the Firm’s St. Louis office: the office’s branch manager (“**Branch Manager #1**”) and the complex administrative manager who, pursuant to FINRA Rule 3110, also served as the supervisory designee (“**Supervisory Designee**”) of Branch Manager #1. The email contained four attachments, each a spreadsheet-based exception report identifying customer accounts managed at one of four Raymond James offices within the Firm’s Midwest Complex, including the St. Louis branch office, that were showing signs of potential excessive trading (or churning)⁹, and that had a market value over \$100,000, five or more trades in 2018, and a return on assets (“**ROA**”)¹⁰ percentage greater than three percent (each, an “**ROA Spreadsheet**”). The subject heading of the email read, “ROA Account Review - Midwest Complex.”
18. Each ROA Spreadsheet contained at least twenty-five columns of information, including the name of the account owner, the age of the account owner, whether the account was a discretionary account,¹¹ the name of the registered representative covering the account, the calculated ROA, the account turnover rate,¹² the number of transactions occurring in the account year-to-date (“**YTD**”), the YTD number of times that the account had been previously identified by the Firm’s electronic surveillance system for suspicious or

⁷ After serving the suspension, Agent voluntarily resigned from New Firm on February 23, 2022, and no longer works in the brokerage or investment advisory services industries.

⁸ At the time of this Consent Order, the Enforcement Section had not fully completed its investigation.

⁹ “In its simplest terms, churning is ‘excessive trading of a customer’s account...too much trading by the broker.’” (*Vogel v. A.G. Edwards & Sons, Inc.*, 801 S.W.2d 746, 749 (Mo. App. 1990)).

¹⁰ ROA is generally the trailing 12-month production value for a customer stated as a percentage of the market value of the customer’s average month-end total assets for the prior 12 months.

¹¹ A discretionary account is a brokerage account in which the customer has provided formal written authorization for the broker to trade the customer’s account without the broker needing to seek prior consent from the customer for each and every trade.

¹² Turnover refers to the number of times that the total value of the account is traded over a given period of time, usually annually. A higher account turnover rate generally implies higher transaction costs and may result in higher taxes to the account owner when funds are held in a taxable account. Turnover is widely considered to be a key indicator of excessive trading. (See also *Mihara v. Dean Witter & Co., Inc.*, 619 F.2d 814, 821 (9th Cir. 1980)(“While there is no clear line of demarcation, courts and commentators have suggested that an annual turnover rate of six reflects excessive trading.”)).

potentially unlawful trading activity (each, an “Alert”), and most recent previous date that the account had triggered an Alert.

19. The ROA Spreadsheet for the St. Louis office (the “**STL ROA Spreadsheet**”) identified eighteen non-discretionary¹³ retail customer accounts (half of which were individual retirement accounts (IRAs)) covered by eleven different registered representatives. Agent was the registered representative for three of the eighteen accounts appearing on the STL ROA Spreadsheet.
20. According to the data in the STL ROA Spreadsheet, the ages of the owners of the three accounts covered by Agent were sixty-nine, seventy-eight, and ninety-four; the ROAs in those accounts were, respectively, 7.74%, 3.28%, and 3.39%; the turnover rates in those accounts were, respectively, 287%, 82%, and 116%; the number of YTD trades in those accounts were, respectively, twenty-four, ten, and seventy. All three accounts had triggered prior Alerts and two of the three accounts had triggered prior Alerts multiple times.
21. In the email containing the attached ROA Spreadsheets, the Chicago-based Divisional Compliance Manager instructed Branch Manager #1 and Supervisory Designee to “[p]lease review the accounts on your list by December 31, 2018. When complete, please respond to this email with either an attestation that you are comfortable with the account activity and suitability profile for the customer, or alternatively, please provide details of an action plan that has been discussed with the [particular broker agent covering the account] to address your concerns.”
22. It wasn’t until more than one month after receiving the email, on January 16, 2019, that Supervisory Designee returned the STL ROA Spreadsheet to the Chicago-based Divisional Compliance Manager with the required attestations.¹⁴ And despite account turnover rates ranging from 23% to 541%, ROAs ranging from 3.05% to 10.12%, and the number of YTD transactions in the accounts ranging from six to 165, for accounts of customers ranging in age from forty-two to ninety-four, for none of the eighteen Alerts identified on the STL ROA Spreadsheet did Supervisory Designee’s attestations reflect reasonable concern. In general, the attestations of Supervisory Designee consistently read either “Comfortable with ROA/suitability” or “Will continue to monitor,” including for the three accounts covered by Agent.
23. According to information provided by the Firm, the investment objectives of the three accounts appearing on the STL ROA Spreadsheet that were covered by Agent were, respectively, wealth accumulation and income, income and growth, and wealth accumulation.

¹³ A non-discretionary account is a brokerage account in which the broker agent is required to obtain prior authorization from the customer before entering any order to trade a security in the customer’s account.

¹⁴ Results from the Firm’s 2019 compliance examination of its St. Louis office, which weren’t published until later that year, cited deficiencies in the office’s supervisory staff’s timeliness in reviewing daily Alerts. The close out letter from the examination, dated September 27, 2019, which was sent to Branch Manager #1, stated that “[a]t the time of the exam, there were 9 daily alerts aged 2 weeks, 16 monthly alerts aged 2 months, 4 quarterly alerts aged 2 quarters and 10 weekly alerts aged 31 days. Additionally, there were 45 other alerts considered aged.”

24. On April 16, 2019, Supervisory Designee met in person with Agent to discuss the activities in certain customer accounts covered by Agent that were triggering Alerts.
25. According to notes written by Supervisory Designee about the meeting with Agent on April 16, 2019, Supervisory Designee addressed an array of potential regulatory concerns with Agent's handling of certain customer accounts: the high velocity of trading by Agent in the accounts; the elderly ages of the account holders; the apparent lack of long-term investment strategies that would support the style of trading, like extremely short-term holding periods on certain positions, occurring in the accounts; high transactional costs to the accounts; the requirements on Agent to appropriately document a customer's authorization to provide Agent with time/price discretion; the occurrence of wash sales in the accounts. "The trading in and out for people who are aging may or may not be the right course for the clients," Supervisory Designee wrote. "Also, we reviewed [Agent's] notes on some of the accounts...[I] told [Agent] that it would be best to enter [Agent's] notes directly following [customer] conversations and to include the 'WHY' and not just what happened."
26. Over the next five months, at least fourteen spreadsheets and other documents circulated to and among St. Louis branch management¹⁵ showing customer account activities by Agent that appeared to violate several FINRA rules, including FINRA Rule 3260(b) and FINRA Rule 2010, and expose the customers to potential unauthorized trading, excessive trading, negative tax implications, and investment losses, yet at no time did anyone within St. Louis branch management take corrective action against Agent. Instead, St. Louis branch management chose to continue to monitor Agent's activities.
27. Meanwhile, a member of the operations staff in the St. Louis office who directly reported to Supervisory Designee sent Active Trade Letters to at least two of Agent's customers (neither of whom was an owner of any of the three accounts identified on the STL ROA Spreadsheet). An Active Trade Letter represented formal notice to a customer of a high YTD velocity of solicited and/or discretionary trading occurring in the customer's account and a YTD disclosure of the accumulated commissions charged to the customer as a direct result of such trading. The last page of the Active Trade Letter contained an attestation comprised of pre-printed boilerplate language along with a few filled-in facts unique to the customer's account. One such attestation sent to a seventy-six-year-old former legal secretary and customer of Agent's ("JL"), stated, in part, the following:

Dear Raymond James,

I am fully aware of the risks involved in trading securities and I confirm that the size and frequency of the transactions in my account agree with my investment objectives. Accordingly, I am aware as of 6-21-2019 (date), 151 (#) transactions have been processed for me/us in account #[XXXXXXXXXX] year to date, generating \$26,351 in commissions. My Financial Advisor discusses each transaction with me prior to execution and I examine all trade confirmations and

¹⁵ The term "St. Louis branch management" includes Branch Manager #1, Supervisory Designee, and Supervisory Designee's two direct reports, who were part of the branch operations management team.

monthly statements. I am at all times aware of my investments, commissions, interest charges (if any). Moreover, my Financial Advisor and I have recently reviewed my account performance and I am aware of the gains/losses experienced.

My [agent] discusses each transaction with me prior to execution and I examine all trade confirmations and monthly account statements. I am at all times aware of my investments, commissions, interest charges (if any). Moreover, my [agent] and I have recently reviewed my account performance and I am aware of the gains/losses experienced...

28. This was not the first Active Trade Letter that the St. Louis office sent JL. In November 2018, the St. Louis office sent JL a functionally identical Active Trade Letter notifying JL of 251 YTD transactions in the same account at a commission cost of \$47,419.
29. In each case, JL signed and dated the attestation and returned a copy to the St. Louis office as requested, presumably without understanding that the letters were red flags.
30. According to information provided to the Securities Division by the Firm, the primary and secondary investment objectives of JL's account, as referenced in the Active Trade Letter, were, respectively, growth and income.
31. Between February 2018 and June 2019, the St. Louis office sent at least sixteen Active Trade Letters to eleven unique customers regarding twelve unique accounts. Nine of the twelve accounts were accounts covered by Agent.
32. By September 2019, the continuing and ongoing pattern of high ROA, high turnover, and high trading velocity in customer accounts of Agent caught the attention of the Firm's Chicago-based Divisional Compliance team, who began to conduct a comprehensive review of Agent's customer account activities.
33. At a regional conference in Chicago in September 2019, the Firm's Chicago-based Divisional Compliance Manager provided the new branch manager of the St. Louis office ("**Branch Manager #2**")¹⁶ copies of various spreadsheets (the "**September Spreadsheets**") that Divisional Compliance created in the course of its comprehensive review of Agent's recent customer account activities. The spreadsheets contained probative data points related to potential churning and unsuitable trading and appeared to assess the scope of such activity across all of Agent's customer accounts.
34. The September Spreadsheets prompted Branch Manager #1, who was now a regional director

¹⁶ In April 2019, Branch Manager #2 became the branch manager of the St. Louis office. At this point, "St. Louis branch management" would include, Branch Manager #1, Branch Manager #2, Supervisory Designee and Supervisory Designee's branch operations staff. In September 2019, Branch Manager #1 was promoted by the Firm to the position of regional director. At this point, "St. Louis branch management" would include, Branch Manager #1, Branch Manager #2, Supervisory Designee and Supervisory Designee's branch operations staff.

at the Firm (but who still worked out of the Firm's St. Louis office), to have a private meeting with Agent. Also, Branch Manager #2 began receiving weekly reports of Agent's trading activity in customer accounts.

35. On November 8, 2019, the Firm's Chicago-based Divisional Compliance Manager sent an email to Branch Manager #2, Branch Manager #1 and Supervisory Designee, stating:

I am just checking in with respect to [Agent]. I updated the [September Spreadsheets], and I don't see a reduction in the trading velocity for [Agent]'s clients. I know you had some additional reviews that you were conducting on a more regular basis and I wondered if you could let me know how these are going?

That same afternoon, Branch Manager #2 replied,

We have been actively reviewing these, tracking activity, etc. I need to summarize what we have and will get back to you.

36. According to the weekly reports that Branch Manager #2 was receiving regarding Agent's retail customer account activities, within the eighty business days between September 1, 2019 and December 24, 2019, Agent traded 454 times across seventeen unique customer accounts. The overwhelming majority of those 454 trades — 448 trades (or 98.68%) — were marked solicited,¹⁷ while only six (or 1.32%) were marked unsolicited.¹⁸ More than 60% of the total trade activity was concentrated in the accounts of four customers — a sixty-nine-year-old former instructional designer of educational materials (“CN”), a seventy-two-year-old former speech pathologist and professor of speech-language pathology, (“DF”), a sixty-two-year-old administrative worker (“TP”), and JL — in which Agent had facilitated between fifty-one and 100 trades during the eighty-day period.
37. On December 24, 2019, based on the weekly reports showing that the velocity of trading in certain customer accounts by Agent had not improved, Branch Manager #1 had another private conversation with Agent. Again, St. Louis branch management took no corrective action against Agent.
38. In January 2020, Branch Manager #2 attempted to contact, by telephone, a sample of Agent's customers. The purpose of the calls was to gather feedback from the customers regarding their relationship with Agent and Agent's handling of their accounts. None of the five customers called by Branch Manager #2 owned any of the three accounts that had appeared on the STL ROA Spreadsheet from December 2018.
39. For the agenda of each call, Branch Manager #2 was guided by a pre-written script containing pleasant opening remarks. The script began with greetings, which were followed by a series

¹⁷ Solicited transactions are transactions that are recommended (or solicited) by the broker to a customer. Prior to entering an order into the marketplace to buy or sell a security that has been solicited to a customer, the broker is required to obtain the customer's consent.

¹⁸ Unsolicited transactions are transactions that originate from the customer's own trade ideas.

of questions, some of which were innocuous (“What do you find most valuable in your relationship with [Agent]?”), while others were more relevant to flushing out potential issues (“How often do you talk to [Agent]?”; “When was the last time [you and Agent] spoke?”). According to the Firm, Agent did not receive prior notice of the calls.

40. Of the five customers Branch Manager #2 contacted, two customers, (JL and a seventy-two-year-old former library assistant (“**PB**”)) refused to speak to Branch Manager #2. Of the remaining three customers who spoke to Branch Manager #2 — CN, DF, and a sixty-eight-year-old former travel agent (“**PO**”), all appeared to express that they liked Agent and trusted and relied on him. However, when asked how often they speak to Agent, PO replied, “...on and off as things come up” and DF replied, “often,” but Branch Manager #2’s notes do not indicate that he pressed the clients for specifics. The third customer, CN, replied, “a couple times a year.” When Branch Manager #2 asked CN when was the last time she spoke to Agent, CN responded, “a few weeks ago.”
41. At the time of the calls, which occurred on January 3 and January 4, 2020, Branch Manager #2 was receiving weekly reports of Agent’s trading in customer accounts. These reports showed four (4) solicited trades by Agent in CN’s non-discretionary account on January 3, 2020.
42. The inconsistency between CN’s answers and Agent’s trading activity in her account — a red flag — should have resulted in additional supervisory scrutiny and alerted Branch Manager #2 to the possibility that Agent was engaging in unauthorized trading or exerting de facto control over CN’s account and churning the account. Nonetheless, for the next eight weeks, from January 4, 2020 to March 2, 2020, St. Louis branch management failed to conduct due diligence or a reasonable inquiry into whether the solicited trading occurring in CN’s account reconciled with CN’s statements on the call about her infrequent communications with Agent. Instead, St. Louis branch management chose to continue to monitor the situation.
43. On or around March 2, 2020, a project manager (“**Project Manager**”) on the Private Client Group (“**PCG**”) Supervision team employed with the Firm’s St. Petersburg, Florida, headquarters was conducting a routine review of the solicited trade report¹⁹ for trades that occurred in customer accounts on February 20, 2020. Included in the Project Manager’s findings was a block of twenty transactions that had been entered by a single registered representative in under twenty minutes — between 13:34:44 and 13:54:41 — for twenty unique customer accounts. None of the accounts were discretionary accounts and none of the orders had been marked with time/price discretion. The registered representative identified as having entered all the orders was Agent.
44. On March 3, 2020, Project Manager forwarded her solicited trade report review findings in an email to the attention of Branch Manager #1 and a senior branch operations manager (who

¹⁹ The solicited trade report was a daily auto-generated report by the Firm’s surveillance system and reviewed by supervision staff employed with the Firm’s headquarters in St. Petersburg, Florida. The purpose of the report was to identify any suspicious activity involving solicited trades throughout the Firm. Suspicious trades displayed on the report were organized by office.

reported directly to Designated Supervisor) in the St. Louis office, noting:

The [execution] times appear that [Agent] may have held client trade orders and entered unique client trades back to back (sic). I reviewed the trades in [the Firm's surveillance system] and they were not marked with Time/Price discretion. If Time/Price discretion is (sic) used, trades must be marked with T/P, and clients (sic) authorization granting Time/Price discretion should be documented in [the Firm's customer relationship management (CRM) platform].

Project Manager ended her email by requesting the St. Louis office provide clarity on the suspect trading by Agent across multiple non-discretionary customer accounts as shown in the report.

45. A member of the operations staff in the St. Louis office reporting to Supervisory Designee reviewed the details of the suspect trades, including any related notes Agent entered into CRM. The results of the review confirmed a pattern of violations by Agent of FINRA Rule 3260, and should have reasonably signaled — especially in light of the evidence that St. Louis branch management had seen in various surveillance reports on Agent's trading activities in customer accounts throughout 2019 — the possibility that Agent was engaging in unauthorized trading and churning in certain customer accounts.
46. Nearly two weeks later, on March 13, 2020, a virtual meeting (the “**March Virtual Meeting**”) took place between Agent, Branch Manager #2, the Firm's Chicago-based Divisional Compliance Manager, and Supervisory Designee. According to notes taken of the meeting, Agent maintained, in regards to at least three non-discretionary customer accounts, that Agent had spoken with the customers prior to entering orders for their accounts and had received, from those customers, price and time discretion; however, Agent admitted to not having entered the orders until the following week, in violation of FINRA Rule 3260. Agent also admitted to accepting orders from at least one customer via text message received on Agent's personal mobile phone (which was not subject to oversight within the Firm's surveillance program) and speaking about another customer's daughter's account who was not authorized to obtain such information through a power-of-attorney.
47. According to notes regarding the March Virtual Meeting, branch management discussed suitability and active trading patterns with Agent. Additionally, branch management reiterated the expectation that Agent's notes include the rationale behind the trading.
48. Yet, despite all of Agent's violative conduct that either surfaced or was confirmed during the March Virtual Meeting, the Firm took no corrective action against Agent. Instead, the Firm chose to continue to monitoring the situation.
49. According to the weekly reports that Branch Manager #2 was receiving regarding Agent's retail customer account activities, within the eighty-six business days between December 30, 2019 and May 1, 2020, Agent traded 521 times across the same seventeen unique customer accounts referenced in paragraph 38 above. The overwhelming majority of those 521 trades

— 507 trades (or 97.3%) — were marked solicited, while fourteen (or 2.7%) were marked unsolicited. Nearly 60% of the total trade activity was concentrated in the accounts of five customers, including JL, PO, TP, and CN.

50. Six weeks later, on May 15, 2020, a PCG Compliance Manager working at the Firm’s St. Louis office (the “**St. Louis-based Compliance Manager**”) but supporting Divisional Compliance in Chicago, sent an email to the Firm’s divisional compliance officer (“**Divisional Compliance Officer**”). In the email, the St. Louis-based Compliance Manager summarized the result of what appears to be an analysis of Agent’s YTD customer account activities. Among other things, the email cited a pattern by Agent of potentially violating FINRA Rule 3260 (or, in the alternative, Agent potentially engaging in unauthorized trading) in non-discretionary accounts of five different customers (all of whom ranged in age from sixty-seven to ninety-five) and suspected unsuitable trading, high turnover, and churning in two non-discretionary accounts of the ninety-five-year-old customer.
51. Before ending the email, the St. Louis-based Compliance Manager recommended that Agent be formally placed on heightened supervision. This did not happen. She further recommended that St. Louis branch management call five customers analyzed in the email to confirm whether the customers had actually spoken with Agent on the day of the trades and authorized the transactions, and, if so, whether they provided price/time discretion to Agent.
52. On June 17, 2020, Branch Manager #2 made calls to four of Agent’s customers, although none were among the five customers recommended by the Firm’s St. Louis-based Compliance Manager. The calls were similar in content to the customer calls Branch Manager #2 made in January 2020. Only one of the customers had been contacted previously, in January, by Branch Manager #2.
53. The first customer (“**SM**”), a then sixty-seven-year-old widow and healthcare consultant, told Branch Manager #2 that she “lets [Agent] manage [the account]” when asked about the transactions in her account and specifically how trading in her account is managed. Although SM’s account was a non-discretionary account, SM stated that Agent had her authority to trade the account “how [Agent] sees fit” and that SM “lets [Agent] do what [Agent] wants.” When asked as to the last time SM spoke with Agent, SM replied, “[P]robably a couple of weeks ago.” According to the Firm’s records, there had been eight trades executed in SM’s account in the week prior to the call and two trades executed the day preceding the call.
54. The second customer (“**MT**”) was a then seventy-nine-year-old former pastor. In response to Branch Manager #2’s inquiry as to how often MT speaks with Agent, MT replied, “[O]nce every [two to three] months,” but MT confirmed that he had not spoken with Agent the day of the call. According to the Firm’s records, there had been sixteen trades executed in MT’s account in the twelve business days preceding the call, including two trades executed just minutes prior to the call.
55. The third customer (“**JA**”) was a then seventy-one-year-old former cage cashier at a gambling casino. In response to Branch Manager #2’s inquiry as to whether JA recently met or spoke with Agent, JA replied, “[N]o.” JA added that she knew Agent was a busy guy and

really couldn't recall the last time they met or spoke. In response to Branch Manager #2's inquiry about the trading decisions in JA's portfolio, JA stated that she and Agent "get together or [have a] call a few times per year, make some big decisions, and then [we] go about [our] way." According to the Firm's records, there had been forty-one trades executed in JA's account between February 19, 2020 and May 11, 2020.

56. The fourth customer was CN. In response to Branch Manager #2's inquiry as to the last time CN had spoken to Agent, CN replied, "a few weeks ago" and that CN had not spoken to Agent recently, "[Agent] just checks in once in a while." According to the Firm's records, there had been eleven trades executed in CN's account the day preceding the call.
57. On June 18, 2020, Branch Manager #1, Branch Manager #2 and Supervisory Designee had a telephone conference call with Agent and confronted Agent with allegations of not seeking the required express authorization from customers before entering solicited transactional orders for their accounts. Branch Manager #1 asked Agent whether Agent had not been calling clients the same day before executing trades and noted that based on branch management's review it appeared that Agent may be talking to clients and then trading later without discretion on the account. Branch Manager #2 reminded Agent about their prior conversation during the March Virtual Meeting and the requirement to talk to clients the same day prior to executing trades. Agent denied trading without contacting the customers, but admitted not always contacting customers on the day of the trade.
58. On July 9, 2020, the Firm terminated Agent's employment with the Firm.
59. The official statement by the Firm, as shown in CRD, regarding the reason for Agent's involuntary termination states, "[Agent] violated firm policy by exercising discretion without authorization from certain clients prior to placing trades in those clients' non-discretionary accounts, and by exceeding time and price discretion authority with regard to other clients."

2. Deficient Written Supervisory Procedures

60. The Firm provided the Enforcement Section with three documents, each of which is titled *RJA Compliance - Policies and Supervisory Procedures* and references the Firm's private client group—the business line within the Firm in which its registered sales staff, known as financial advisors, like Agent, are employed. The Firm represented these documents as sections of the Firm's written supervisory procedures ("WSP") that are relevant to this matter and were in effect during the Relevant Period. Each document denotes its application to one of the following three topic areas: unauthorized trading, time and price discretion; generally prohibited practices.
61. In its review of the WSP, in effect during the Relevant Period, the Enforcement Section found that:
 - a. while two of the WSP generally instructed the branch manager (or supervisory manager) to monitor the customer account activities of its local agents for potential unauthorized trading and compliance with laws, rules, and regulations applicable to

an agent's exercise of price/time discretion, the WSP did not explain, in any useful detail, how the Firm's supervisors should conduct their reviews of the referenced materials, like trade blotters and customer account documentation, to identify potential issues or violations;

- b. with respect to the frequency of the reviews, the WSP do not describe the frequency with the required level of specificity (e.g., daily, weekly, monthly, quarterly, or annually) but rather used ill-defined terms like "ongoing" or "as needed";
 - c. with respect to documenting the evidence of the review, the section of the WSP pertaining to unauthorized trading did not instruct the supervisors to retain all reviews but only those reviews in which violations were identified;
 - d. not all of the reviews actually conducted by the Firm during the Relevant Period, such as the solicited trade review, are referenced in the WSP; and
 - e. the WSP did not include any guidance to the Firm's supervisors regarding the steps to be taken, including corrective action, if suspicious activity was discovered.
62. Although the Firm had a monitoring system to identify actively traded customer accounts, the WSP addressing the topic of active trading was deficient. While the WSP instructed the branch/supervisory manager to "comprehensively" review the subject account(s), the WSP failed to provide the supervisor with any guidance on specifically what the supervisor needed to review or analyze in the account in order to constitute a comprehensive review. The WSP also failed to provide the supervisor with the steps to be taken if actual churning or other trading abuses were discovered. Additionally, the WSP failed to describe the frequency with which the supervisor was to conduct the active trade reviews with the required level of specificity, merely stating that the review would be "ongoing." Finally, according to information contained in the WSP, the Firm appears not to have reviewed its WSP for active trading for more than three years.
63. Further, in none of the supervisory reviews actually conducted by the Firm during the Relevant Period that potentially related to excessive trading or churning did the Firm utilize the calculation of cost-equity ratio.²⁰
64. The Enforcement Section alleges that based on its findings, as set forth above in paragraphs 17 through 59, Respondent violated 15 CSR 30-51.171.
65. The Enforcement Section further alleges that Respondent's violation of 15 CSR 30-51.171 is sufficient ground to sanction Respondent in accordance with Sections 409.4-412(c) and 409.4-412(d)(9).

²⁰ Cost-equity ratio, which is typically stated as a percentage, is the amount the account would need to appreciate annually in value in order for the customer to breakeven as a result of the accumulated commissions and other transaction fees in the account. One method for calculating this statistic is by dividing total relevant expenses in the account by average monthly equity in the account. Like turnover, a high cost-equity ratio is considered to be a relevant indicator of excessive trading.

II. CONCLUSIONS OF LAW

66. **THE COMMISSIONER CONCLUDES** that, during the Relevant Period, Respondent failed to reasonably supervise by failing to reasonably implement a reasonable policy for disciplinary and progressive supervisory action against Agent after detecting violations of NASD Rule 2510(b) and FINRA Rules 3260 and 2010 by Agent, which continued for at least eighteen months and subjected the Firm's customers, several of whom were elderly customers, to potential harm, including unauthorized trading and churning, in violation of 15 CSR 30-51.171(2)(M).
67. **THE COMMISSIONER CONCLUDES** that, during the Relevant Period, Respondent failed to reasonably supervise by failing to establish current procedures that could reasonably allow a supervisor reasonably discharging his/her supervisory duties under such established procedures to prevent and detect violations under the Missouri Securities Act, in violation of 15 CSR 30-51.171(2)(B).
68. **THE COMMISSIONER CONCLUDES** that, during the Relevant Period, Respondent failed to reasonably supervise by failing to reasonably follow up on indications of wrongdoing (or red flags) regarding unauthorized trading, churning, and violations of NASD Rule 2510(b) and FINRA Rules 3260 and 2010, in violation of 15 CSR 30-51.171(2)(E).
69. **THE COMMISSIONER CONCLUDES** that Respondent's violation of 15 CSR 30-51.171 constitutes sufficient ground to sanction Respondent in accordance with Sections 409.4-412(c) and 409.4-412(d)(9).
70. **THE COMMISSIONER CONCLUDES** that an order is in the public interest to sanction Respondent as a broker-dealer agent pursuant to Sections 409.4-412(b) and 409.4-412(d)(9).
71. **THE COMMISSIONER CONCLUDES** that the violations above are sufficient to issue an order in accordance with Section 409.6-604.
72. The Commissioner, after consideration of the stipulations set forth above and on consent of the Respondent and the Enforcement Section, finds and concludes that the Commissioner has jurisdiction over Respondent in this matter and that the following order is in the public interest, necessary for the protection of public investors, and consistent with the purposes intended by Chapter 409.

III. ORDER

NOW, THEREFORE, it is hereby Ordered that:

73. Respondent shall pay \$150,000 to the Missouri Secretary of State's Investor Education and Protection Fund. **This amount is due upon execution of this Order by Respondent and shall be made payable to the Missouri Secretary of State's Investor Education and Protection Fund**, and sent to the Missouri Securities Division at 600 W. Main Street, Jefferson City, Missouri 65101;

74. Respondent, its agents and employees, and all other persons participating in the above-described alleged violations with knowledge of this Order, must cease and desist from engaging in violations 15 CSR 30-51.171 and conduct and activities subject to discipline under Sections 409.4-412(c) and 409.4-412(d)(9); and
75. Respondent shall pay its own costs and attorneys' fees with respect to this matter.

SO ORDERED:

WITNESS MY HAND AND OFFICIAL SEAL OF MY OFFICE AT JEFFERSON CITY,
MISSOURI THIS 2 DAY OF AUGUST, 2023.




JOHN R. ASHCROFT
SECRETARY OF STATE



DOUGLAS M. JACOBY
COMMISSIONER OF SECURITIES


Consented to by:

THE MISSOURI SECURITIES DIVISION



William F. H. Dunker
Enforcement Counsel

RESPONDENT



Gregory Michael Kessler
Senior Vice President
Raymond James & Associates, Inc.