STATE OF NEW JERSEY
BUREAU OF SECURITIES
P.O. BOX 47029
NEWARK, New Jersey 07101
(973) 504-3600

IN THE MATTER OF: Andre P. Davis (CRD # 1417097) Respondent.	**SUMMARY REVOCATION AND PENALTY ORDER**

Pursuant to the authority granted to Christopher W. Gerold, Chief of the New Jersey Bureau of Securities ("Bureau Chief"), under the New Jersey Uniform Securities Law (1997), N.J.S.A. 49:3-47 to -89 ("Securities Law") and certain regulations thereunder, and based upon documents and information obtained during the investigation by the New Jersey Bureau of Securities ("Bureau"), including, but not limited to, the Letter of Acceptance, Waiver and Consent, No. 2018057640301 ("AWC") accepted by the Financial Industry Regulatory Authority ("FINRA") on March 3, 2020, the Bureau Chief hereby finds that there is good cause and it is in the public interest to enter this Summary Revocation and Penalty Order ("Order") against Andre P. Davis, and makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

Introduction

1. Andre P. Davis (CRD No. 1417097) ("Davis") was an agent of First Standard Financial Company, LLC (CRD No. 168340) ("First Standard"), a now defunct broker-dealer based in Red Bank, New Jersey. From 2015 until his termination in May 2019, Davis engaged in a pattern of excessive, unsuitable, and, in some instances, unauthorized trading on behalf of certain customers. Davis executed his active trading strategy with impunity – taking advantage of unsophisticated and novice investors, some of whom trusted him with their life savings and retirement.

2. Davis made these trades (often without authorization and on margin) on behalf of his customers in commissioned-based accounts, which meant that Davis and First Standard were paid commissions on each trade (both purchases and sales) that he executed. This reduced the potential gains of any profitable trades and exacerbated the losses on unprofitable trades. It also caused the customers' accounts to generate exorbitant transaction costs and fees that far exceeded any benefit to the customers. This unsuitable trading strategy resulted in accounts being overconcentrated at times in certain securities, and in overall massive losses for his customers. Despite the harmful impact to his customers, between January 2016 to May 2019, Davis benefited by generating at least $7.5 million in commissions and fees for himself, First Standard, and the other First Standard agents with whom he shared accounts. These commissions and fees represented 23.8% of First Standard's total revenue during the same period.

Respondent

3. Davis, residing in Freehold, New Jersey, was registered with the Bureau from March 21, 2000 through May 30, 2019, as an agent of various broker-dealers, including most recently with First Standard from March 16, 2015 through May 30, 2019.

Davis Engaged in a Pattern of Excessive, Unsuitable, and Unauthorized Trading

4. While registered as an agent of First Standard, Davis recommended to customers an active, short-term trading strategy (often without authorization and on margin) that maximized commissions for himself and First Standard without regard to its suitability for his customers. This trading strategy resulted in large realized investment account losses to Davis's customers, and generated large commissions and fees for himself, First Standard, and the other First Standard agents with whom he shared accounts.

5. Pursuant to regulations promulgated under the Securities Law and FINRA rules, Davis was required to have a reasonable basis when recommending to a customer a security or an investment strategy.

6. Pursuant to N.J.A.C. 13:47A-6.3(a)(3), it is a dishonest or unethical practice for agents and broker-dealers to recommend "to a customer an investment strategy, or the purchase, sale, or exchange of any security or securities without reasonable grounds to believe that such strategy, transaction, or recommendation is suitable for the customer based upon reasonable inquiry concerning the customer's investment objectives, financial situation, and needs, and any other relevant information known by the broker-dealer."

7. FINRA Rule 2111 states that each "member or 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."

8. Despite these rules and regulations, Davis did not have a reasonable basis for believing that his recommended active, short-term trading strategy – which rose to the level of excessive trading – was suitable for his customers.

9. The unsuitability of Davis's trading strategy is apparent from a quantitative analysis of his customers' accounts. While there is no single test that defines excessive trading, factors such as cost-to-equity ratio and turnover rate provide a basis for a finding of excessive trading.

10. The cost-to-equity ratio of an account is determined by first calculating the sum of the commissions, costs, and other fees in an investor's account, and then dividing the sum by the average equity in the account on an annualized basis. This estimate shows the percentage of investment returns needed to pay the costs and commissions of the brokerage firm and its agent before a customer can even begin to make a profit on the investments.

11. The turnover rate measures how often the securities in an investor's portfolio are traded in a year. Turnover rate is calculated by dividing the total security purchases by the average month-end equity balance in an account, and then annualizing the result. Turnover rates of six or more presumptively indicate excessive trading. Turnover rates of less than six may also be excessive in cases where the level of activity is unsuitable for the investor.

12. A review of former First Standard customer accounts managed by Davis found that Davis engaged in excessive trading (often without authorization and on margin) in at least ten customer accounts. The annualized cost-to-equity ratios for the ten customer examples identified below ranged from approximately 31% to 76%. And the annualized turnover rates ranged from 5

to 14. Both the cost-to-equity ratio and turnover rates demonstrate that Davis's recommended short-term trading strategy was excessive and unsuitable.

13. From January 2016 to May 2019, Davis generated $1,414,552 in gross commissions and fees from his trading strategy in just the ten example customer accounts identified below. As described below, Davis was only able to generate these commissions by engaging in excessive, unsuitable, and unauthorized trading.

Davis Recommended and Purchased Securities that Resulted in the Overconcentration of Certain Securities in His Customers' Accounts

14. In addition to trading his customers' accounts in an excessive and unsuitable manner, Davis also recommended and executed trades that resulted in his customers' accounts being overly concentrated in certain high-risk, speculative securities. Davis also did not have a reasonable basis when recommending these trades.

15. For example, in early 2018, Davis purchased a high-risk, speculative Brazilian telecommunications stock, NII Holdings, Inc. ("NIHD"), for nearly all of his customers' accounts, regardless of their investment objectives or risk tolerance. At the time Davis recommended and purchased the stock for his customers' accounts, NIHD had no earnings and a negative cash flow. Davis's customers sustained massive losses due to the overconcentration of NIHD stock in their accounts when the company announced on March 18, 2019, that it was liquidating its remaining assets and selling its holdings.

16. Davis also overconcentrated his customers' accounts with other highly speculative stocks priced at less than $5 per share, including, but not limited to, HTG Molecular Diagnostics, Inc. ("HTGM") and Sito Mobile Ltd. ("SITO").

17. Davis's strategy of concentrating nearly all his customers' assets into a single volatile security resulted in excessively high risk for his customers (and often massive losses), and substantial commissions and fees for Davis and First Standard.

Davis's Use of Cold Callers

18. Davis used junior brokers at First Standard to open new customer accounts. Davis directed these junior brokers at First Standard to cold call prospective customers nationwide. Once the junior broker opened an account for a new customer, Davis took over the trading and management of the new customer's account.

19. When opening the new customer accounts, Davis and the junior brokers, acting at Davis's direction ("Davis Junior Brokers"), sent the customers new account forms with pre-populated information, including "speculation" as the investment objective and "high risk" as the risk tolerance, regardless of the customers' true investment objectives and risk tolerances.

20. Davis's customers included farmers, home repair contractors, electricians, and long haul truck drivers. Many customers were retired or nearing retirement, and had little, if any, prior investment experience. Regardless of their actual investment objectives, liquidity needs, and risk tolerance, Davis deployed an active trading strategy that maximized commissions for himself, the Davis Junior Brokers, and First Standard without regard to its suitability for his customers.

Examples of Davis's Fraudulent Conduct

Customer AS

21. Customer AS resides in Gallup, New Mexico, where he is a restaurateur. Customer AS had limited investment experience and was not a sophisticated investor. On May 18, 2016, Customer AS opened a First Standard account ("AS's Account") as a result of a cold call from a

Davis Junior Broker. Shortly thereafter, First Standard added Davis as a representative on AS's Account and Davis started trading in the account.

22. AS's Account included margin trading. However, at no point did Davis or anyone else from First Standard disclose to Customer AS the risks associated with trading on margin.

23. Davis recommended, bought and sold high risk, speculative equities in AS's Account (often without authorization), which at times resulted in AS's Account being overconcentrated in certain equities.

24. From the inception of trading in AS's Account, Davis conducted unauthorized trading. When Customer AS called to complain about the trading activity in the account that he did not recognize, Davis called him "an ungrateful bastard."

25. In another instance, Customer AS received a call from Davis pretending to be someone from First Standard's compliance department calling to address Customer AS's complaints about unauthorized trading in his account on margin.

26. Throughout their relationship, Davis pressured Customer AS to deposit more funds into AS's Account with the promise of high returns. Customer AS experienced at least six to eight margin calls and had to satisfy margin deficiencies by making withdrawals from a home equity line of credit. When Customer AS objected or expressed concern about the use of margin, Davis told him "trust me, you sell burritos."

27. From October 2018 to January 2019, Davis purchased for AS's Account 20,000 shares of NIHD for approximately $5.50 per share. AS's Account was leveraged using margin. These purchases resulted in an overconcentration of NIHD stock in AS's Account. At times, NIHD stock represented 100% of the value of AS's Account. As shares of NIHD started to

decrease in value, Customer AS received margin calls and was forced to liquidate holdings to cover the calls. As a result, Customer AS sustained losses of over $75,000.

28. From May 2016 to June 2019, the annualized cost-to-equity ratio in AS's Account was 43%, with commissions and fees of $187,719 and an average net equity of $170,511. This meant that Customer AS would have had to earn 43% on a yearly basis simply to pay Davis's and First Standard's commissions and fees, much less generate a return. During this same period, AS's Account was turned over ten times on an annualized basis. Customer AS ultimately lost $109,944 as a result of the overconcentration in NIHD equities and the excessive, unsuitable, and unauthorized trading by Davis.

Customer ES

29. Customer ES resides in Buffalo, New York, where he owns and operates a tree removal business. Customer ES had limited investment experience and was not a sophisticated investor. In October 2016, Customer ES opened a First Standard account ("ES's Account") after receiving a cold call from a Davis Junior Broker. Shortly thereafter, First Standard added Davis as a representative on ES's Account. Customer ES informed Davis that the money being invested was retirement savings he had accumulated over years in the tree removal business.

30. Customer ES had never traded in the stock market prior to being cold called. He also had no understanding of the use of margin, and never authorized Davis to effect any trades on margin or to leverage the account.

31. When discussing potential trades with Customer ES, Davis implemented high pressure sales tactics by insinuating that he had special inside knowledge and used terms like "rumor has it" and "my sources say," and adding that time was of the essence.

32. Davis recommended, bought and sold high risk, speculative equities in ES's Account (often without authorization), which at times resulted in Customer ES being overconcentrated in certain equities.

33. For example, in July 2017, Davis recommended and purchased SITO stock for Customer ES. This represented 63% of ES's Account portfolio at the time. Davis subsequently purchased additional SITO stock for ES's Account. From September 2017 through November 2017, SITO stock represented 100% of the value ES's Account portfolio. In total, 12,525 shares of SITO stock was purchased for approximately $5 per share. Customer ES subsequently added additional funds to the account. In April 2018, the SITO stock was sold for a loss of $41,173 with Customer ES paying $2,750 in commissions.

34. In another example, in March 2018 Davis purchased, without Customer ES's knowledge or authorization, 30,000 shares of HTGM stock, which represented 56% of ES's Account portfolio. In April and May of 2018 additional shares were purchased, which brought the concentration of ES's Account in HTGM to 80% of ES's Account portfolio. The HTGM stock was ultimately sold for a loss of $45,442 to ES's Account, with Customer ES paying $4,800 in commissions.

35. In yet another example, from June 2018 through January 2019, Davis recommended and purchased NIHD stock in ES's Account. NIHD eventually represented 100% of ES's Account portfolio. At the time of the purchases, Davis represented to Customer ES that his superior industry information formed the basis of recommended purchases of NIHD. Davis, without authorization, purchased and sold large blocks of NIHD in ES's Account, ultimately resulting in losses of $24,318.

36. From October 2016 through July 2019, the annualized cost-to-equity ratio in ES's Account was 31%, with commissions and fees of $30,665 and an average net equity of $35,770. During the same period, ES's Account was turned over seven times on an annualized basis. Customer ES ultimately lost $121,687 as a result of the overconcentration in certain securities and excessive, unsuitable, and unauthorized trading by Davis.

Customer JB

37. Customer JB resides in upstate New York and works as a long-haul truck driver. The funds held by Customer JB represented his life savings, which he had accumulated while earning a yearly salary of roughly $28,000, and additionally included the proceeds from a court settlement following the death of his first wife in a car crash that had occurred in 1987.

38. In March 2015, Customer JB received a cold call from a Davis Junior Broker who introduced Customer JB to Davis. At that time, Customer JB was nearing retirement, had limited investment experience (prior experience was limited to mutual funds), and was not interested in purchasing high-risk or speculative investments.

39. Customer JB opened a First Standard account in May 2015 ("JB's Account"). Davis immediately made recommendations and engaged in an excessive trading strategy involving highly volatile securities that were unsuitable for and at times unauthorized by Customer JB.

40. Customer JB was not familiar with margin; nor did he authorize Davis to place trades using margin. Despite this, Davis traded JB's account using margin. At no point did Davis inform Customer JB of the risks involved with trading using margin.

41. Davis told Customer JB that the investments would outperform the market if they used Davis's trading strategy. However, Davis's trading strategy included short-term trading with high fees and commissions making it nearly impossible for Customer JB to earn a profit.

42. From January 2016 to June 2018, the annualized cost-to-equity ratio in JB's Account was 76%, with commissions and fees of $53,252 and an average net equity of $31,212. This meant that JB's Account would have had to earn 76% on a yearly basis to pay Davis's and First Standard's commissions and fees, much less generate a return. During this same time period, JB's Account had a turnover rate in excess of nine times on an annualized basis. Customer JB ultimately lost $15,396 as a result of the excessive, unsuitable, and unauthorized trading by Davis.

Customer BB

43. Customer BB was a grain farmer who had been working at a farm cooperative for forty years in Wanamingo, Minnesota before retiring in early 2018. In September 2016, shortly prior to retiring, Customer BB opened a brokerage account at First Standard ("BB's Account") after receiving a cold call from a Davis Junior Broker. Davis took over the account a month after it was opened. Customer BB had limited investment experience, was not looking to invest aggressively, and was not familiar with margin.

44. Customer BB repeatedly told Davis that he was nearing retirement and needed safe investments. In response, Davis repeatedly stated that he was "going to make [Customer BB] a millionaire" and that there was a 95% chance that a given stock was going to make money.

45. Between September 2016 and April 2019, BB's Account was excessively traded by Davis (sometimes without authorization) in speculative equities, which at times resulted in Customer BB being overconcentrated in certain equities.

46. Davis also traded on margin without authorization from Customer BB and without explaining its risks. Davis had no reasonable basis to conduct this leveraged short-term trading strategy in BB's Account. By leveraging the accounts of Customer BB and other customers, Davis

was able to place larger sized trades that generated more commissions for Davis and First Standard at the expense of the customer.

47. For example, in January 2018, Davis began recommending and purchasing HTGM stock in BB's Account. (Davis also recommended and purchased the HTGM stock, on nearly identical dates for some of his other customers.) These purchases resulted in Customer BB being overconcentrated in HTGM stock. On June 13 and 14, 2018, Davis sold Customer BB's HTGM stock for a total loss of $48,855 (the same dates he sold the HTGM stock of numerous other customers).

48. In another example, starting in June 2018 through August 2018, Davis purchased (without authorization and on margin) 80,750 shares of NIHD for BB's Account in three separate blocks for a total for $435,526. Soon thereafter, the stock price collapsed, which resulted in margin calls and significant losses. As a result, Customer BB lost another $201,930.

49. In addition to speculative equities, Davis also purchased unsuitable bonds for BB's Account. On April 17, 2017, Davis recommended and purchased three high yield corporate junk bonds in BB's Account, which resulted in an overconcentration of nearly half the value of the account. Standard & Poor's rated one of the corporate bonds as CCC which means they are viewed by that rating agency as "highly speculative" and carrying "substantial risk" with "default imminent with little prospect for recovery." The three bonds were sold on June 16, 2017, resulting in an aggregate loss of $22,260, as illustrated in the following table.

Bond and Rating	Quantity	Commission	Net Loss
Hornbeck Offshore Services Caa1/CCC	$70,000 at 56.310	$1,435	$7,407
Frontier Communications B2/B+	$55,000 at 84.00	$1,441	$4,153

Bristow Group B2/B-	$58,000 at 61.125	$1,444	$10,700
Total	$140,162	$4,320	$22,260

50. From September 2016 through April 2019, the annualized cost-to-equity ratio in BB's Account was 22%, with commissions and fees of $186,308 and an average net equity of $338,400. During the same period, Davis turned Customer BB's account over 5 times on an annualized basis. Customer BB ultimately lost $371,045 as a result of the unsuitable, excessive, and unauthorized trading activity by Davis.

Customer KC

51. Customer KC from Bingham, Illinois, raises livestock and has worked as a grain farmer for decades. Customer KC was preparing for retirement and had very little investment experience. On February 10, 2016, Customer KC was cold called by a Davis Junior Broker who persuaded him to open a brokerage account at First Standard ("KC's Account").

52. Upon introduction to Davis, Customer KC informed Davis that the account represented his life savings from working as a grain farmer. Davis never asked Customer KC any questions concerning his investment objectives or risk tolerance.

53. Between March 2016 and June 2019, KC's Account was excessively traded by Davis (sometimes without authorization) in speculative equities, which at times resulted in Customer KC being over concentrated in certain equities.

54. Davis recommended to Customer KC that he trade in and out of equities quickly in order to take advantage of special market conditions. Initially, Davis's trading of KC's Account was successful. However, Davis was rapidly turning over stock and bond positions, generating commissions for himself and First Standard. Over time Davis ceased requesting Customer KC's

authorization to make trades, and instead would call Customer KC to inform him of trades that had already occurred in KC's Account.

55. As with Davis's other customers, Davis started purchasing HTGM stock in KC's Account in March 2018. By the end of the month, HTGM represented almost 53% of KC's Account. KC's Account lost $263,626 in the purchase and sale of HTGM stock.

56. Similar to Customers ES and BB, Davis also began concentrating a large percentage of KC's Account assets into NIHD stock in June 2018. From September 2018 through December 2018 and from February 2019 through March 2019, NIHD stock represented 100% of KC's Account portfolio. KC's Account lost $108,052 from the purchase and sale of NIHD.

57. Davis's trading of NIHD and HTGM stock in KC's Account generated approximately $42,690 in commissions.

58. As with Customer BB, from April 2017 through June 2017, Customer KC had over 26% of his portfolio concentrated into the same three high yield corporate bond issues: Hornbeck Offshore, Frontier Communications, and Bristow Group. The remaining 48% of the KC Account portfolio at that time was invested in one stock.

59. On multiple occasions in 2017 and 2018, Customer KC attempted to withdraw funds from his account. But each time, Davis either persuaded Customer KC to leave his money in the account, or "would simply put him off" and disregard Customer KC's instructions. For example, in April 2017, Customer KC requested money be withdrawn from the account to purchase a share of his deceased brother's farm, but Davis refused, offering instead to grow the account by three or four million dollars. Again in fall 2017, Customer KC requested money be withdrawn from his account to pay the rent on farms he leased, but again Davis persuaded him not

to do so. On another occasion, Davis agreed to disburse the requested funds to Customer KC, but failed to honor that agreement.

60. From February 2016 to June 2019, the annualized cost-to-equity ratio in KC's Account was 74%, with commissions and fees of $667,853 and an average net equity of $297,546. This meant that KC's Account would have had to earn 74% on a yearly basis simply to pay Davis's and First Standard's commissions and fees, much less generate a return. During this same period, KC's Account was turned over 12 times on an annualized basis. Customer KC ultimately lost $88,409 as a result of the excessive, unsuitable, and unauthorized trading by Davis.

Customer DC

61. Customer DC, residing in Port Charlotte, Florida, worked as an x-ray technician. He was in his early sixties and making plans to retire. In March 2018, a Davis Junior Broker cold called him and he opened an account ("DC's Account").

62. Davis convinced Customer DC to purchase certain securities by telling him that he had personally invested his own money into the same stocks that he was recommending, and that he had an "insider tip" and that the investment was a "sure thing."

63. Davis recommended, bought, and sold high risk, speculative equities in DC's Account (often without authorization), which at times resulted in Customer DC being overconcentrated in certain equities.

64. Starting in June 2018, Davis started buying NIHD stock in DC's Account in large quantities, on margin, and without Customer DC's authorization. Davis's recommendations and purchases resulted in DC's Account being overconcentrated in NIHD stock. From August 31, 2018 through December 31, 2018, NIHD stock represented nearly 100% of DC's Account

portfolio. As a result, Customer DC sustained $265,655.75 in losses on trades in NIHD stock and paid over $18,595 in commissions.

65. From March 2018 to May 2019, the annualized cost-to-equity ratio in DC's Account was 37%, with commissions and fees of $32,472 and an average net equity of $86,112. This meant that DC's Account would have had to earn 37% on a yearly basis to pay Davis's and First Standard's commissions and fees, much less generate a return. In just one year, DC's Account was turned over 10 times. Customer DC ultimately lost $333,439 as a result of the excessive, unsuitable, unauthorized trading by Davis.

Customer GL

66. Customer GL was born and raised in Andalusia, Alabama, where he practiced law for forty years as a general practitioner. Customer GL was a widower and lived alone. Customer GL was planning for retirement, while supporting two of his grandchildren and living on a fixed budget. He had limited assets to invest.

67. In March 2015, Customer GL received a cold call from a First Standard agent who convinced him to open a First Standard brokerage account ("GL's Account"). Shortly thereafter, GL's Account was transferred to Davis. Customer GL was seeking low risk investments since the money he was investing represented retirement savings.

68. Davis recommended, bought and sold high risk, speculative equities in GL's Account (often without authorization), which at times resulted in Customer GL being overconcentrated in certain equities.

69. Between January 2016 to March 2019, Davis excessively traded GL's Account with speculative equities, including SITO and NIHD. Customer GL had heard of margin and expressly informed Davis that he wanted no part of it, as he was concerned that he could end up owing more

money than initially invested. Davis disregarded Customer GL's instruction and leveraged the account by trading on margin.

70. Starting in May 2017, Davis started buying SITO stock in large quantities, on margin, in GL's Account without Customer GL's authorization. Davis's recommendations and purchases resulted in an overconcentration of SITO stock in GL's Account. From July 31, 2017 through October 31, 2017, SITO stock represented between 61% to 74% of GL's Account. Customer GL sustained $30,780 in losses on trades in SITO stock.

71. In September 2018, Davis bought 3,000 shares of NIHD stock, on margin for GL's Account, without Customer GL's authorization. Davis's recommendations and purchases resulted in an overconcentration of NIHD stock in GL's Account. From September 27, 2018 through March 19, 2019, NIHD stock represented nearly 100% of GL's Account. Customer GL sustained $11,906.66 in losses on trades in NIHD stock.

72. From January 2016 to March 2019, the annualized cost-to-equity ratio in GL's Account was 34%, with commissions and fees of $29,215 and an average net equity of $27,780. This meant that GL's Account would have had to earn 34% on a yearly basis to pay Davis's and First Standard's commissions and fees, much less generate a return. During a span of just over three years, the account was turned over 5 times on an annualized basis. Customer GL ultimately lost $58,105 as a result of the excessive, unsuitable, and unauthorized trading by Davis.

Customer LA

73. Customer LA resides in Edmond, Oklahoma and works as an electrician and electrical contractor. Around March 2016, Customer LA was cold called by a First Standard agent. Customer LA agreed to open an account (LA's Account) and was sent a pre-populated new account

application form that indicated a high risk tolerance and speculative investment objective. The account was set up as a Joint Tenancy between Customer LA and Customer LA's wife.

74. After LA's Account was opened, it was eventually transferred to Davis.

75. Davis recommended, bought and sold high risk, speculative equities in LA's Account (often without authorization). Davis also routinely purchased more shares of stock than had been authorized by Customer LA.

76. From March 2016 to August 2018, the annualized cost-to-equity ratio in LA's Account was 44%, with commissions and fees of $119,986 and an average net equity of $119,097. This meant that LA's Account would have had to earn 44% on a yearly basis simply to pay Davis's and First Standard's commissions and fees, much less generate a return. During a span of just over two years, the account was turned over 8 times on an annualized basis. Customer LA ultimately lost $25,849 as a result of the excessive, unsuitable, and unauthorized trading by Davis.

<u>Customer TB</u>

77. Customer TB lives in Henrico, Virginia, and sells construction products to builders and contractors. Much of Customer TB's liquid net worth came from a motorcycle accident settlement in 2012.

78. Customer TB had limited investment experience prior to the cold call he received from a First Standard agent in November 2014, which led to him opening a First Standard brokerage account ("TB's Account"). The account was ultimately transferred to Davis in February 2016. Customer TB informed Davis he was not seeking to pursue an aggressive investment strategy and that he needed access to short-term cash to assist with his business.

79. Instead of implementing a trading strategy consistent with Customer TB's stated investment objectives and needs, Davis purchased and sold high risk speculative equities. Again

as seen with nearly all of Davis's other customers, TB's Account assets were concentrated at various times into NIHD, SITO, and HTGM, resulting in losses of $160,236 for Customer TB, while Davis and First Standard netted thousands of dollars in commissions and fees.

80. In July 2017, Davis started recommending and purchasing shares of SITO stock, on margin for TB's Account (at times without Customer TB's authorization). Davis's recommendations and purchases resulted in an overconcentration of SITO stock in TB's Account. On July 31, 2017, SITO stock represented almost 63% of the value of TB's Account. From September 31, 2017 through January 31, 2018, SITO stock represented nearly 100% of the value of TB's Account. Customer TB sustained $60,088.41 in losses on trades in SITO stock and paid over $7,600 in commissions.

81. In February and March 2018, Davis purchased HTGM stock for TB's Account. As a result, HTGM represented nearly 100% of the assets in TB's Account. A few months later the stock still represented over 50% of TB's Account portfolio. Customer TB sustained $21,623.54 in losses on trades in HTGM stock and paid over $2,775 in commissions.

82. For most of the period of October 31, 2018 through March 8, 2019, Davis had recommended and purchased shares of NIHD stock, to represent nearly 100% of TB's Account portfolio. Customer TB sustained $78,524.11 in losses on trades in NIHD stock and paid over $4,775 in commissions.

83. Davis was able to accomplish a high volume of trading in TB's Account despite a low amount of net equity by employing margin and highly leveraging the account. Customer TB had limited experience trading on margin prior to dealing with Davis, and did not fully understand the risks associated with using margin. At no point did Davis explain the risks inherent in leveraging an account with margin to Customer TB, nor did Davis seek authorization from

Customer TB to place a trade on margin prior to its execution. Customer TB only became aware of the use of margin in his account after being told in a call from First Standard that there was a margin call in his account. As a result, Customer TB had to deposit additional funds to cover a margin deficiency. Customer TB refused to deposit additional funds and repeatedly tried to reach Davis without success. Customer TB eventually reached First Standard's management personnel who told Customer TB that his stocks "didn't work out" and that "all [of] his money was gone."

84. From February 2016 to April 2019, the annualized cost-to-equity ratio in TB's Account was 65%, with commissions and fees of $88,933 and an average net equity of $43,060. This meant that TB's Account would have had to earn 65% on a yearly basis simply to pay Davis's and First Standard's commissions and fees, much less generate a return. During this same period of time TB's Account was turned over 9 times on an annualized basis. Customer TB ultimately lost $118,632 as a result of the excessive, unsuitable, unauthorized, and concentrated trading by Davis.

Customer JS

85. Customer JS has resided in Tucson, Arizona for over forty years and worked as a floor remodeling and repair contractor. Customer JS was 70 years old when he received a cold call from a Davis Junior Broker in July 2017, which led to him opening a First Standard brokerage account ("JS's Account"). The account was ultimately transferred to Davis.

86. Customer JS was seeking safety of his principal as he was nearing retirement. Over time, Customer JS began noticing high commissions in his account and trades he did not recall authorizing.

87. For example, on October 18, 2017, Davis purchased 5,000 shares of Kandi Technologies ("KNDI") at $8.59 a share without informing Customer JS. The next day, on

October 19, 2017, Davis liquidated the 5,000 shares at $8.06 per share, resulting in a $4,267 loss in JS's Account. Further, Customer JS paid $1,500 in commissions on the trade. When Customer JS confronted Davis about the unauthorized trading activity, Davis responded that he "tried something and it did not work out."

88. Starting in September 19, 2017, Davis started building a position in SITO in JS's Account purchasing 3,000 shares at $5.11 a share. On October 4, 2017, and again on October 18, 2017, Davis purchased another 12,500 combined shares of SITO, concentrating nearly 70% of JS's Account into the speculative equity before selling all 15,500 shares in February 2018, for a loss of $27,925.

89. From August 2017 to March 2018, the annualized cost-to-equity ratio in JS's Account was 78%, with commissions and fees of $18,149 and an average net equity of $52,608. This meant that JS's Account would have had to earn 78% on a yearly basis to pay Davis's and First Standard's commissions and fees, much less generate a return. During this same period of time JS's Account was turned over 14 times on an annualized basis. Customer JS ultimately lost $34,092 as a result of the excessive, unsuitable, unauthorized, and concentrated trading by Davis.

FINRA AWC

90. On February 21, 2020, FINRA accepted the AWC in which Davis consented to findings, without admitting or denying, that included the following:

a. On January 13, 2020, FINRA sent a FINRA Rule 8210 request to Davis seeking documents and records in connection with an investigation into allegations that Davis engaged in excessive and unsuitable trading in customer accounts while associated with First Standard.

b. On January 29, 2020, Davis acknowledged that he had received the requests, and would not produce information or documentation requested by FINRA.

c. By refusing to appear for testimony as requested by FINRA, Davis violated FINRA Rules 8210 and 2010.

91. In the AWC, Davis accepted a bar from associating with any FINRA member firm in any and all capacities.

CONCLUSIONS OF LAW

DAVIS MADE UNTRUE STATEMENTS AND OMITTED TO STATE MATERIAL FACTS NECESSARY IN ORDER TO MAKE THE STATEMENTS MADE, IN LIGHT OF THE CIRCUMSTANCES UNDER WHICH THEY ARE MADE, NOT MISLEADING N.J.S.A. 49:3-52(b)

92. The preceding paragraphs are incorporated by reference as though set forth in full herein.

93. Pursuant to N.J.S.A. 49:3-52:

> It shall be unlawful for any person, in connection with the offer, sale, or purchase of any security, directly or indirectly
>
> . . . .
>
> (b) 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….

94. Davis omitted to state material facts to certain customers including that he would be:

a. engaging in excessive and unsuitable trading;

b. overconcentrating accounts in speculative equities;

c. using margin trading;

d. engaging in a trading strategy that would cause the customers' accounts to incur significant commissions, fees, and costs; and

e. engaging in trading without prior authorization (i.e., unauthorized trading).

95. Each omission of a material fact and each materially false or misleading statement is a violation of N.J.S.A. 49:3-52(b).

96. Each violation of N.J.S.A. 49:3-52(b) upon each person is a separate violation and cause for the imposition of civil monetary penalties pursuant to N.J.S.A. 49:3-70.1.

<u>DAVIS ENGAGED IN AN ACT, PRACTICE, OR COURSE OF BUSINESS WHICH OPERATED OR WOULD OPERATE AS A FRAUD OR DECEIT UPON ANY PERSON</u>
N.J.S.A. 49:3-52(c)

97. The preceding paragraphs are incorporated by reference as though set forth verbatim herein.

98. Pursuant to N.J.S.A. 49:3-52:

> It shall be unlawful for any person, in connection with the offer, sale, or purchase of any security, directly or indirectly
>
> . . . .
>
> (c) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

99. Davis engaged in an act, practice, or course of business which operated or would operate as a fraud or deceit upon certain customers by:

a. engaging in unsuitable and excessive trading;

b. unsuitably concentrating accounts in speculative securities;

c. using margin trading that would cause the customers' accounts to incur significant commissions, fees, and costs; and

d. engaging in trading without prior authorization (i.e., unauthorized trading).

100. Each act is a violation of N.J.S.A. 49:3-52(c).

101. Each violation of N.J.S.A. 49:3-52(c) upon each person is a separate violation and cause for the imposition of civil monetary penalties pursuant to N.J.S.A. 49:3-70.1.

<u>DAVIS ENGAGED IN DISHONEST OR UNETHICAL PRACTICES IN THE SECURITIES BUSINESS</u>
N.J.S.A. 49:3-58(a)(1)
N.J.S.A. 49:3-58(a)(2)(vii)
N.J.A.C. 13:47A-6.3(a)(2)

102. The preceding paragraphs are incorporated by reference as though set forth verbatim herein.

103. Pursuant to N.J.S.A. 49:3-58(a):

> The bureau chief may by order deny, suspend, or revoke any registration if he finds: (1) that the order is in the public interest; and (2) that the applicant or registrant . . . (vii) has engaged in dishonest or unethical practices in the securities . . . business, as may be defined by the rule of the bureau chief.

104. Pursuant to N.J.A.C. 13:47A-6.3(a):

> Dishonest or unethical practices as used in N.J.S.A. 49:3-47 et seq. … shall include the following:
>
> . . . .
>
> (2) Inducing trading in a customer's account that is excessive in size or frequency in view of the financial resources and character of the account.

105. As demonstrated above, Davis engaged in dishonest or unethical practices in the securities business by inducing trading in the accounts of Customers AS, ES, JB, BB, KC, DC, GL, LA, TB, and JS that was excessive in size and frequency in view of the financial resources and character of the accounts.

106. Based upon the foregoing, and pursuant to N.J.S.A. 49:3-58(a)(1), the revocation of Davis's registration as an agent and denial of certain exemptions are in the public interest.

<u>DAVIS ENGAGED IN DISHONEST OR UNETHICAL PRACTICES IN THE SECURITIES BUSINESS</u>
N.J.S.A. 49:3-58(a)(1)
N.J.S.A. 49:3-58(a)(2)(vii)
N.J.A.C. 13:47A-6.3(a)(3)

107. The preceding paragraphs are incorporated by reference as though set forth verbatim herein.

108. Pursuant to N.J.S.A. 49:3-58(a):

> The bureau chief may by order deny, suspend, or revoke any registration if he finds: (1) that the order is in the public interest; and (2) that the applicant or registrant . . . (vii) has engaged in dishonest or unethical practices in the securities . . . business, as may be defined by the rule of the bureau chief.

109. Pursuant to N.J.A.C. 13:47A-6.3(a):

> Dishonest or unethical practices as used in N.J.S.A. 49:3-47 et seq. … shall include the following:
>
> . . . .
>
> (3) Recommending to a customer an investment strategy, or the purchase, sale, or exchange of any security or securities without reasonable grounds to believe that such strategy, transaction, or recommendation is suitable for the customer based upon reasonable inquiry concerning the customer’s investment objectives, financial situation, and needs, and any other relevant information known by the broker-dealer.

110. As demonstrated above, Davis engaged in dishonest or unethical practices in the securities business by recommending to the accounts of Customers AS, ES, JB, BB, KC, DC, GL, LA, TB, and JS an investment strategy, or the purchase, sale, or exchange of any security or securities without reasonable grounds to believe that such strategy, transaction, or recommendation was suitable for the customers.

111. Based upon the foregoing, and pursuant to N.J.S.A. 49:3-58(a)(1), the revocation of Davis’s registration as an agent and denial of certain exemptions are in the public interest.

<u>DAVIS ENGAGED IN DISHONEST OR UNETHICAL PRACTICES IN THE SECURITIES BUSINESS</u>
N.J.S.A. 49:3-58(a)(1)
N.J.S.A. 49:3-58(a)(2)(vii)
N.J.A.C. 13:47A-6.3(a)(4)

112. The preceding paragraphs are incorporated by reference as though set forth verbatim herein.

113. Pursuant to N.J.S.A. 49:3-58(a):

> The bureau chief may by order deny, suspend, or revoke any registration if he finds: (1) that the order is in the public interest; and (2) that the applicant or registrant . . . (vii) has engaged in dishonest or unethical practices in the securities . . . business, as may be defined by the rule of the bureau chief.

114. Pursuant to N.J.A.C. 13:47A-6.3(a):

> Dishonest or unethical practices as used in N.J.S.A. 49:3-47 et seq. . . . shall include the following:
>
> . . . .
>
> (4) Placing an order or executing a transaction on behalf of a customer without prior authorization to do so.

115. As demonstrated above, Davis engaged in dishonest or unethical practices in the securities business by placing orders or executing transactions on behalf of the accounts of Customers AS, ES, JB, BB, KC, DC, GL, LA, TB, and JS without prior authorization (i.e., unauthorized trading).

116. Based upon the foregoing, and pursuant to N.J.S.A. 49:3-58(a)(1), the revocation of Davis's registration as an agent and denial of certain exemptions are in the public interest.

<u>DAVIS ENGAGED IN DISHONEST OR UNETHICAL PRACTICES IN THE SECURITIES BUSINESS</u>
N.J.S.A. 49:3-58(a)(1)
N.J.S.A. 49:3-58(a)(2)(vii)
N.J.A.C. 13:47A-6.3(a)(6)

117. The preceding paragraphs are incorporated by reference as though set forth verbatim herein.

118. Pursuant to N.J.S.A. 49:3-58(a):

> The bureau chief may by order deny, suspend, or revoke any registration if he finds: (1) that the order is in the public interest; and (2) that the applicant or registrant . . . (vii) has engaged in dishonest or unethical practices in the securities . . . business, as may be defined by the rule of the bureau chief.

119. Pursuant to N.J.A.C. 13:47A-6.3(a):

> "Dishonest or unethical practices" as used in N.J.S.A. 49:3-47 et seq. … shall include the following:
>
> . . . .
>
> (6) Executing any transaction in a margin account without securing consent to trade on margin from the customer before the initial transaction in the account.

120. As demonstrated above, Davis engaged in dishonest or unethical practices in the securities business by executing trades on margin in accounts belonging to Customer ES, JB, BB, KC, DC, and GL without obtaining authorization.

121. Based upon the foregoing, and pursuant to N.J.S.A. 49:3-58(a)(1), the revocation of Davis's registration as an agent and denial of certain exemptions are in the public interest.

DAVIS IS THE SUBJECT OF AN ORDER OF A SELF-REGULATORY ORGANIZATION EXPELLING HIM FROM A SELF-REGULATORY ORGANIZATION
N.J.S.A. 49:3-58(a)(1)
N.J.S.A. 49:3-58(a)(2)(vi)

122. The preceding paragraphs are incorporated by reference as though set forth verbatim herein.

123. Pursuant to N.J.S.A. 49:3-58(a):

> [t]he bureau chief may by order deny, suspend, or revoke any registration if he finds: (1) that the order is in the public interest; and (2) that the applicant or registrant . . . (vi) . . . is the subject of an order of . . . a self-regulatory organization . . . suspending or expelling him from a national securities or commodities association.

124. Having been barred from association with any FINRA member, Davis has effectively been expelled from a self-regulatory organization. This is cause, pursuant to N.J.S.A. 49:3-58(a)(2)(vi), to revoke Davis's agent registration, and to deny certain exemptions.

125. Based upon the foregoing, and pursuant to N.J.S.A. 49:3-58(a)(1), the revocation of Davis's agent registration and denial of certain exemptions are in the public interest.

CONCLUSION

For the reasons stated above, it is on this 28th day of December 2020 **ORDERED** that:

1. The agent registration of Davis is **REVOKED**.

2. Davis is assessed and liable to pay civil monetary penalties in the amount of $1,000,000 pursuant to N.J.S.A. 49:3-70.1, for violations of the Securities Law described in this Order, which is immediately due and payable to the "State of New Jersey, Bureau of Securities." Payment of civil monetary penalties shall be made by certified check, bank check or an attorney trust account check, and delivered to the Bureau at 153 Halsey Street, 6th Floor, Newark, NJ 07102, to the attention of the Bureau Chief. The penalty payment shall be deposited into the Securities Enforcement Fund, pursuant to N.J.S.A. 49:3-66.1.

3. All exemptions contained in N.J.S.A. 49:3-50 subsections (a) paragraph 9, 10, and 11 and subsection (b) are hereby **DENIED** as to Davis.

4. All exemptions to the registration requirements provided by N.J.S.A. 49:3-56(b), N.J.S.A. 49:3-56(c), and N.J.S.A. 49:3-56(g) are hereby **DENIED** as to Davis.

Christopher W. Gerold
Chief, Bureau of Securities

NOTICE OF RIGHT TO HEARING

Pursuant to the Uniform Securities Law (1997), N.J.S.A. 49:3-47 to -83 ("Securities Law"), specifically, N.J.S.A. 49:3-58(c), the Bureau Chief shall entertain on no less than three days' notice, a written application to lift the summary revocation on written application of the applicant or registrant and in connection therewith may, but need not, hold a hearing and hear testimony, but shall provide to the applicant or registrant a written statement of the reasons for the summary revocation.

This matter will be set down for a hearing if a written request for such a hearing is filed with the Bureau within 20 days after the respondent receives this Order. A request for a hearing must be accompanied by a written response, which addresses specifically each of the allegations set forth in the Order. A general denial is unacceptable. At any hearing involving this matter, an individual respondent may appear on his/her own behalf or be represented by an attorney.

Orders issued pursuant to this subsection to suspend or revoke any registration shall be subject to an application to vacate upon 10 days' notice, and a preliminary hearing on the order to suspend or revoke any registration shall be held in any event within 20 days after it is requested, and the filing of a motion to vacate the order shall toll the time for filing an answer and written request for a hearing.

If no hearing is requested, the Order shall become a Final Order and will remain in effect until modified or vacated. If a hearing is held, the Bureau Chief shall affirm, vacate or modify the order in accord with the findings made at the hearing.

NOTICE OF OTHER ENFORCEMENT REMEDIES

You are advised that the Uniform Securities Law (1997), N.J.S.A. 49:3-47 to -89, provides several enforcement remedies, which are available to be exercised by the Bureau Chief, either alone or in combination. These remedies include, in addition to this action revoking your registration, the right to seek and obtain injunctive and ancillary relief in a civil enforcement action, N.J.S.A. 49:3-69, and the right to seek and obtain civil penalties in an administrative or civil action, N.J.S.A. 49:3-70.1.

You are further advised that the entry of the relief requested does not preclude the Bureau Chief from seeking and obtaining other enforcement remedies against you in connection with the claims made against you in this action.