

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

**IN THE MATTER OF:**

Gabriel Block (CRD No. 2103543),

Respondent.

**SUMMARY PENALTY AND  
REVOCATION ORDER**

Pursuant to the authority granted to Christopher W. Gerold, Chief of the New Jersey Bureau of Securities (“Bureau Chief”), under the Uniform Securities Law (1997), N.J.S.A. 49:3-47 to -83 (“Securities Law”) and certain regulations thereunder, and based upon documents and information obtained during the investigation by the New Jersey Bureau of Securities (“Bureau”), the Bureau Chief hereby finds that there is good cause and it is in the public interest to enter this Summary Penalty and Revocation Order (“Order”) against Gabriel Block and makes the following findings of fact and conclusions of law:

**FINDINGS OF FACT**

**Introduction**

1. From at least December 2008 to March 2015, financial advisor Gabriel Block (“Block”) recommended securities as part of an unsuitable, high-cost trading strategy to at least three customers that generated at least \$1.6 million in commissions and fees for himself and his

associated broker-dealers. Block personally received approximately fifty percent of those commissions and fees, which totaled at least \$800,000. Block recommended that the three customers engage in the short-term buying and selling of stocks and other types of securities, all within commission-based accounts. Block's recommended trading strategy was unsuitable and inconsistent with the risk tolerances and needs of the customers. Block's victims were inexperienced, unsophisticated investors that included:

- A 36-year old, quadriplegic construction-accident victim ("Investor A"), who had funded his accounts with the proceeds of a legal settlement that were for his medical care and living expenses;
- A 43-year old, unemployed widow and mother of three children ("Investor B"), who had funded her accounts with the proceeds of a legal settlement from a medical malpractice claim from her husband's death; and
- Investor B's 75-year old, retired, and widowed mother-in-law ("Investor C"), who had funded her accounts with her and her deceased husband's retirement savings.

2. Block's unsuitable recommendations and implemented trading strategy violated the Securities Law as Block had no reasonable basis to believe that the strategy, and many of the specific trades that made up that strategy, were suitable for Investors A, B, and C.

### **Respondent**

3. Block (CRD No. 2103543), residing in Rumson, New Jersey, has been registered with the Bureau as an agent and/or investment adviser representative of several broker-dealers since 1991, including most recently at:

- a. Morgan Stanley DW Inc. ("Morgan Stanley") (CRD No. 7556), from November 14, 1999 through January 22, 2004;

- b. Janney Montgomery Scott LLC (“Janney Montgomery”) (CRD No. 463), from February 4, 2004 through November 19, 2008;
  - c. Oppenheimer & Co. Inc. (“Oppenheimer”) (CRD No. 249), from December 12, 2008 through March 17, 2014;
  - d. National Securities Corporation (“National”) (CRD No. 7569), from May 21, 2014 through April 15, 2016; and
  - e. First Standard Financial Company, LLC (“First Standard”) (CRD No. 168340), from June 23, 2016 through March 13, 2018.
4. Due to a history of customer complaints, Block’s registration with the Bureau as an agent was subject to heightened supervisory agreements at the following firms: Wheat First Butcher Singer (n/k/a/ First Union Capital Markets Corp., CRD# 6124) (April 3, 1997); National (May 21, 2014); and First Standard (June 21, 2016).

5. On March 13, 2018, First Standard terminated Block’s employment. Block has not been registered with the Bureau since that time.

**Block Had No Reasonable Basis for the Trading Strategy**

6. Both the regulations promulgated pursuant to the Securities Law and the Financial Industry Regulatory Authority (“FINRA”) rules require that financial advisors have a reasonable basis when recommending to a customer a security or an investment strategy. Despite these rules and regulations, Block recommended securities to Investors A, B, and C as part of an active trading strategy without having a reasonable basis for believing that this strategy, and many of the accompanying securities, were suitable.

7. N.J.A.C. 13:47A-6.3(a)(3) states that it is a dishonest or unethical practice 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." 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. Instead of recommending a suitable investment strategy, or suitable securities, for Investors A, B, and C, Block's active trading strategy was designed to maximize commissions for himself, without regard to its suitability for his customers.

9. First, Block executed short-term trades for Investors A, B, and C in commission-based accounts, meaning they paid Block commissions on trades (both purchase and sale) that he executed on their behalf. This strategy reduced the gains of any profitable trades, and exacerbated the losses on unprofitable trades. The exorbitant transaction costs and fees incurred from the active trading strategy far exceeded any benefit from that trading to the investors.

10. Second, as part of Block's excessive trading strategy, he recommended and executed trades for syndicate securities, including initial and secondary public offerings, which he often sold shortly after they were purchased. For public offerings, the issuer sells the securities to syndicate broker-dealers, such as Oppenheimer, at a discounted price. This discount is commonly referred to as a concession. The broker-dealer subsequently offers and sells the securities to investors through agents, such as Block, at a marked up price representing a profit to the broker-dealer. While the mark up is paid to the broker-dealer, Block was compensated based on the profit

made from the concessions. Shortly after recommending that customers purchase syndicate securities, Block executed sales of the securities.

11. Third, Block recommended and executed short-term trades involving securities designed to be held as long-term investments, such as municipal bonds and closed-end funds. Closed-end funds, such as the ones Block recommended, typically state in their prospectuses that the investments were for long-term investment purposes.

12. The unsuitability of Block's trading strategy is confirmed by a quantitative analysis of the investors' accounts. Although there is no single test that defines excessive trading, factors such as turnover rate and cost-to-equity ratio provide a basis for a finding of excessive trading.

13. 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. As discussed further below, the turnover rates for Investors A, B, and C demonstrate that Block's recommended trading strategy was unsuitable.

14. The cost-to-equity ratio 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 on an annualized basis. In other words, it represents the percentage of investment returns needed to pay the costs and commissions of the brokerage firm and its agent before an investor can even begin to make a profit on their investments. As discussed further below, the cost-to-equity ratios for Investors A, B, and C demonstrate that Block's recommended trading strategy was unsuitable.

### **Unsuitable Strategy and Excessive Trading in Investor A's Accounts**

15. On April 26, 2000, while working as an ironworker, Investor A fell and was paralyzed from the neck down. As a result of his accident, Investor A was confined to a wheel chair and, at times, required a ventilator to assist him in breathing. Consequently, Investor A requires ongoing medical treatment and full-time private care, which result in substantial monthly expenses.

16. Investor A received a structured monetary settlement of approximately \$12 million to be paid over time. Investor A relied on the settlement to support himself and to pay his substantial medical bills for the remainder of his life. The funds were initially managed by SunTrust Bank ("SunTrust"), as trustee.

17. In the fall of 2005, Investor A met Block through a mutual acquaintance, while Block was working out of the Red Bank, New Jersey office of Janney Montgomery. Shortly thereafter, Investor A caused the SunTrust structured settlement to be dissolved, and transferred approximately \$3.9 million in funds to Janney Montgomery with Block as the agent of record beginning December 2005.

18. When Block changed firms from Janney Montgomery to Oppenheimer in November 2008, Investor A transferred his assets to Oppenheimer, where Block was again the agent of record.

19. As part of the account opening process at Oppenheimer, an Account Information Form for Investor A was completed for Account A62-XXX34973 ("Account 4973") on December 8, 2008.

20. According to Oppenheimer's policies and procedures, the Account Information Forms were to be prepared by Investor A's financial advisor and approved by a branch manager.

The Account Information Form for Account 4973 was initially prepared and signed by Block's registered assistant Debra Bourne ("Bourne"), as the financial advisor because Block was not yet registered with the Bureau at the time, and it was approved by a branch manager.

21. The Account Information Forms contained information about Investor A, including his employer, business, occupation, liquid and total net worth, and investment objectives.

22. On the December 8, 2008 Account Information Form, Investor A's employer's name, nature of business, and occupation indicated that Investor A was "Disabled." It also indicated that Investor A was not retired. The December 8, 2008 Account Information Form also listed Investor A's income as approximately \$50,000, his liquid net worth as approximately \$1,000,000, and his total net worth as approximately \$3,500,000.

23. On January 21, 2009, an Account Information Form was completed for another account for Investor A, Account A62-XXX34965 ("Account 4965"). Block, as the financial advisor, completed the form and it was approved by a branch manager.

24. On the January 21, 2009 Account Information Form, Investor A's employer's name, nature of business, and occupation indicated that Investor A was "Disabled." It also indicated that Investor A was not retired. The January 21, 2009 Account Information Form also listed Investor A's income as approximately \$50,000, his liquid net worth as approximately \$1,000,000, and his total net worth as approximately \$3,500,000.

25. On January 23, 2009, an Account Information Form was completed for another account for Investor A, Account A62-XXX36408 ("Account 6408"); Block, as the financial advisor, completed the form and it was approved by a branch manager.

26. The January 23, 2009 Account Information Form indicated that Investor A was retired, and failed to state Investor A's employer's name, nature of business, and occupation,

although the instructions stated that “If Retired - Indicate Former Occupation and Employer.”

27. The January 23, 2009 Account Information Form listed Investor A’s income as approximately \$50,000, his liquid net worth as approximately \$1,200,000, and his total net worth as approximately \$1,200,000.

28. Between December 2008 and March 2009, approximately \$2.7 million was transferred and deposited into Investor A’s three Oppenheimer accounts, representing over 75% of Investor A’s liquid net worth as represented on the December 8, 2008 and January 21, 2009 Account Information Forms, and more than double the amount indicated on the January 23, 2009 Account Information Form.

29. All of the aforementioned Oppenheimer Account Information Forms for Investor A stated that his investment objective was “Capital Appreciation (Aggressive).” Oppenheimer’s internal policies and procedures define Capital Appreciation as “[a] preference for assuming risk consistent with the pursuit of appreciation in value because of ‘company’ performance, market conditions, income reinvestment, or a combination of these.” Oppenheimer’s policies and procedures define an “Aggressive” risk tolerance as “[i]nvestors who emphasize return on investment over principal preservation. They are willing to subject a larger portion of their portfolios to risk in anticipation of greater return on investment.”

30. Based on the information that was known to Block at the time, including that Investor A was a permanently disabled individual who required the income from the settlement money to live and pay for his medical expenses, an investment objective for Investor A of “Capital Appreciation (Aggressive)” was not suitable.

31. Throughout the time that Investor A’s accounts were at Oppenheimer, Block’s recommended short-term trading strategy resulted in 1,168 trades being executed in Investor A’s



accounts. Those trades generated \$857,665 in commissions and other fees for Block and Oppenheimer, as well as \$3,051 in margin interest in one account. Block was paid by Oppenheimer approximately fifty percent of the commissions and fees he generated, pursuant to his employment agreement with Oppenheimer. Thus, Block generated approximately \$428,000 in net commissions and other fees for himself from the accounts of Investor A.

32. The annualized cost-to-equity ratio in Investor A's accounts while at Oppenheimer were 29.3% for Account 4965, 27.5% for Account 4973, and 13.5% for Account 6408.

33. As a result of Block's trading, the annualized turnover rates in Investor A's accounts were 5.2 for Account 4965, 7.4 for Account 4973, and 3.8 for Account 6408.

34. A summary of the cost-to-equity and turnover rate for Investor A's accounts is set forth below:

<b>Account</b>	<b>Purchases</b>	<b>Commissions</b>	<b>Margin Interest</b>	<b>Average Equity</b>	<b>Cost-To-Equity Ratio</b>	<b>Annual Turnover Rate</b>
Account 4965	\$502,731	\$28,357	0	\$145,414	29.3%	5.2
Account 4973	\$15,998,407	\$594,820	\$3,051	\$1,087,712	27.5%	7.4
Account 6408	\$6,392,301	\$229,972	0	\$888,176	13.5%	3.8

35. The cost-to-equity ratio and turnover rate demonstrate that Block's recommended trading strategy to Investor A was unsuitable and excessive given Investor A's investor profile information, and the facts that Investor A relied upon the returns from his portfolio to meet his living expenses and medical needs, and his inability to replace capital that was lost in the market or consumed by excessive transaction costs.

36. The unsuitable and excessive trading in Investor A's accounts is further demonstrated by an analysis of the average length of time that each security was held before being sold. In Investor A's accounts, between 7.4 and 52.47 percent of the securities were sold within thirty days of having been purchased. Moreover, between 63 and 79.8 percent of the securities

were sold within ninety days of their purchase, as illustrated by the tables below:

Days Held	Account 4965		Account 4973		Account 6408	
	(# of Transactions/ % of Total)		(# of Transactions/ % of Total)		(# of Transactions/ % of Total)	
<b>0-30 Days</b>	2	7.4%	117	52.47%	17	12.32%
<b>31-60 Days</b>	3	11.11%	30	13.45%	9	6.52%
<b>61-90 Days</b>	12	44.44%	31	13.90%	52	37.68%
<b>90+ Days</b>	10	37.04%	45	20.18%	60	42.48%
<b>Total</b>	27	100%	223	100%	138	100%

37. Among the unsuitable short-term trades which Block recommended in to Investor A were the following:

- a. The purchase and sale of a \$100,000 Bexar County, Texas revenue municipal bond within a month, generating \$4,315 in commissions on what was supposed to be a long-term investment;
- b. Ten trades in which Block repeatedly purchased and then quickly sold a total of 44,100 shares of Central Fund of Canada Ltd., a closed-end Canadian gold and silver bullion fund, generating \$13,049 in commissions on total purchases of \$530,365 and sales of \$547,029;
- c. The purchase of 490 shares of the Claymore Exchange Traded Multi-Asset Fund on December 30, 2010 and their sale just a week later on January 6, 2011;
- d. The purchase of 2,000 shares of Eldorado Gold Corp. on January 4, 2011 and their sale just two days later;
- e. The purchase of 925 shares of the First Trust Morningstar Dividend Leaders Fund on December 30 and 31, 2010, and their sale just a week later on January 6, 2011; and
- f. The purchase of 1,050 shares of iShares Gold Trust closed-end fund on December

30 and 31, 2010 and their sale just a week later on January 6, 2011.

38. On or about January 20, 2011, Investor A's mother, who also acted as his attorney-in-fact, filed a customer complaint with Oppenheimer, alleging that Investor A's accounts had been mishandled by Block and Oppenheimer. As a result of that initial complaint, a formal mediation was held between Investor A and both Oppenheimer and Janney Montgomery, since much of Block's alleged conduct occurred while he was still associated with Janney Montgomery. At mediation or shortly thereafter, both firms settled with Investor A. Janney Montgomery agreed to pay Investor A \$387,500 to settle his claims on or about December 12, 2012. Oppenheimer also agreed to pay Investor A \$375,000 to settle his claims on December 28, 2012.

#### **Unsuitable Strategy and Excessive Trading in Investor B's Accounts**

39. Investor B was a 44-year old widowed homemaker, raising three children at the time she opened her accounts at Oppenheimer with Block as her agent of record. Her husband had been a plumber and died of cancer in 2002. As a result of an alleged medical misdiagnosis, Investor B received a settlement of approximately \$690,000 ("Settlement Funds"). Investor B, who was not employed, relies on the Settlement Funds, Social Security benefits, and, for several years, a small pension benefit from her husband's plumber's union, to pay for her and her family's expenses.

40. Block became Investor B's financial advisor while Block was associated with Morgan Stanley. Investor B transferred the Settlement Funds to a Morgan Stanley investment account and allowed Block to invest on her behalf. Investor B followed Block from Morgan Stanley to Janney Montgomery, and then from Janney Montgomery to Oppenheimer.

41. In November 2008, Investor B opened two accounts at Oppenheimer. On November 13, 2008, as part of the account opening process, two Oppenheimer Account

Information Forms – one for Account A87-XXX9279 (“Account 9279”) and another for Account A62-XXX4031 (“Account 4031”) – were completed by Bourne, Block’s assistant, as financial advisor, and approved by a branch manager.

42. Both November 13, 2008 Oppenheimer Account Information Forms listed Investor B’s employment and business as being a “homemaker,” her occupation as being a “housewife,” and indicated that she was not retired. Both November 13, 2008 Account Information Forms also indicated that Investor B’s investment objectives were “Capital Appreciation (Aggressive).”

43. The Account Information Form for Account 9279 listed Investor B’s income as approximately \$50,000, her liquid net worth as approximately \$1,000,000, and her total net worth as approximately \$1,000,000.

44. The Account Information Form for Account 4031 listed Investor B’s income as approximately \$50,000, her liquid net worth as approximately \$500,000, and her total net worth as approximately \$1,000,000.

45. On August 17, 2009 and December 9, 2011, Block amended Oppenheimer Account Information Forms for Accounts 9279 and 4031, respectively, which still included “Capital Appreciation (Aggressive)” as an investment objective for Investor B, and added “Short Term Trading” as an investment objective.

46. Based on the information that was known to Block at the time, including that Investor B was a widowed homemaker, raising three children on a fixed income, the investment objectives for Investor B of “Capital Appreciation (Aggressive)” or “Short Term Trading” were not suitable.

47. At the time Investor B transferred her funds from Janney Montgomery to Oppenheimer, the accounts consisted of investment grade municipal bonds.

48. From December 2008 to February 2014, Block's recommended short-term trading strategy resulted in 1,420 trades being executed in Investor B's accounts. Those trades generated \$664,971 in commissions and other fees for Block and Oppenheimer. Block was paid by Oppenheimer approximately fifty percent of the commissions and fees he generated, pursuant to his employment agreement with Oppenheimer. Thus, while Investor B maintained her accounts at Oppenheimer, Block generated approximately \$332,485 in net commissions and other fees for himself from the accounts of Investor B.

49. The annualized cost to equity ratio in Investor B's accounts at Oppenheimer were 27.42% for Account 4031 and 13.14% for Account 9279.

50. As a result of Block's trading, the annualized turnover rates in Investor B's accounts were 8.5 for Account 4031 and 3.9 for Account 9279.

51. A summary of the cost-to-equity and turnover rate for Investor B's account is set forth below:

<b>Account</b>	<b>Purchases</b>	<b>Commissions</b>	<b>Margin Interest</b>	<b>Average Equity</b>	<b>Cost-To-Equity Ratio</b>	<b>Annual Turnover Rate</b>
Account 9279	\$16,789,048	\$513,451	\$27,745	\$370,070	27.42%	8.5
Account 4031	\$3,281,651	\$109,894	\$0	\$159,249	12.96%	3.9

52. The cost-to-equity ratio and turnover rate demonstrate that Block's recommended trading strategy to Investor B was unsuitable and excessive given Investor B's investor profile information, and the facts that Investor B relied, in part, upon the returns from her portfolio to meet her living expenses, and her inability at the time to replace capital that was lost in the market or consumed by excessive transaction costs.

53. The unsuitable and excessive trading in Investor B's accounts is further demonstrated by an analysis of the average length of time that each security was held before being

sold. In Investor B's accounts, between 22.5 and 41.8 percent of the securities were sold within thirty days of having been purchased. Moreover, between 74.2 and 76.3 percent of the securities were sold within ninety days of their purchase, as illustrated by the tables below:

Days Held	Account 9279 (# of Transactions/ % of Total)		Account 4031 (# of Transactions/ % of Total)	
	0-30 Days	18	22.50%	81
31-60 Days	29	36.25%	29	14.95%
61-90 Days	14	17.50%	34	17.53%
90+ Days	19	23.75%	50	25.77%
<b>Total</b>	<b>27</b>	<b>100%</b>	<b>223</b>	<b>100%</b>

54. Among the unsuitable short-term trades which Block recommended to Investor B were the following:

- a. Eighteen short-term trades in Central Goldtrust, with purchases totaling \$1,117,330.00 and sales totaling \$1,150,646.16, which generated commissions of \$28,853.50;
- b. Fifteen purchases and sales of Legacy Reserves Limited Partnership units, with purchases totaling \$412,093.50 and sales totaling \$443,860.46, which generated commissions of \$21,202.40;
- c. Nineteen purchases and sales of Energy Income and Growth Fund, with purchases totaling \$606,620.00 and sales totaling \$590,326.30, which generated commissions of \$17,531.00; and
- d. Fifteen purchases and sales of the Central Fund of Canada, with purchases totaling \$475,839.66 and sales totaling \$489,974.00, which generated commissions of \$13,043.26.

55. On or about June 29, 2015, Investor B filed a FINRA arbitration against Oppenheimer and National, alleging that Block had engaged in unsuitable and excessive trading

in her accounts at both firms. As a result of that FINRA arbitration and prior to hearing, both Oppenheimer and National settled Investor B's claims. On or about May 31, 2016, Oppenheimer agreed to pay Investor B \$675,000, and on June 1, 2016, National agreed to pay Investor B \$35,000.

**Unsuitable Strategy and Excessive Trading in Investor C's Accounts**

56. Investor C is the retired mother-in-law of Investor B. She was 70 years old at the time that she and her husband opened their joint account at Oppenheimer in November 2008. Investor C's husband had retired from the New York City Fire Department, and Investor C was a retired secretary.

57. After Investor C's husband passed away in May 2013, the trading in the account of this recently widowed investor (who was then 75 years old) increased significantly. Investor C transferred her accounts to Block, when he moved from Oppenheimer to National in March 2014.

58. As part of the account opening process on March 17, 2014, a National Brokerage Account Application was completed for Investor C for Account XXX-XX1654 ("Account 1654"). The Brokerage Account Application listed Investor C's occupation as "RETIRED" and her income source as "SAVINGS FROM EARNINGS." It also listed her annual income as being between "\$25,000 – \$50,000." Her estimated net worth and investable/liquid assets were both listed as being between "\$100,000 – \$500,000." Her investment profile indicated that she was purportedly interested in "Market speculation" and that her investment objective was purportedly "Speculation."

59. On May 7, 2014, Investor C's Brokerage Account Application was updated and her investment objectives were changed to "Capital Appreciation" and "Preservation of Capital."

60. On March 17, 2014, a National Brokerage Account Application was completed for

Investor C for Account XXX-XX1652 (“Account 1652”). The Brokerage Account Application listed Investor C’s occupation as “RETIRED” and her income source as “Other: ACAT.” It also listed her annual income as being between “\$25,000 – \$50,000.” Her estimated net worth and investable/liquid assets were both listed as being between “\$100,000 – \$500,000.” Her investment profile indicated that she was primarily interested in “Preservation of Capital” and her risk tolerance was “Moderately Aggressive.”

61. From March 2014 to March 2015, Block recommended and implemented a scheme of unsuitable and excessive trading that generated \$74,211 in commissions and other fees for himself and National. Block was paid by National approximately seventy percent of the commissions and other fees he generated, pursuant to his Registered Representative Independent Contractor Agreement with National. Thus, Block generated approximately \$54,948 in net commissions and other fees for himself.

62. While at National, Block executed approximately 273 trades in Investor C’s Accounts.

63. While at National, the annualized cost-to-equity ratio in Account 1654 was 19.59% and the annual turnover rate was 6.04. The annualized cost-to-equity ratio in Investor C’s National Account 1652 was 14.74% and the turnover rate was 4.17.

64. The cost-to-equity ratio and turnover rate demonstrate that Blocks’ recommended trading strategy to Investor C was unsuitable and excessive given Investor C’s investor profile information, and the facts that she relied, in part, upon the returns from her portfolio to meet her living expenses during retirement, and her inability to replace capital that was lost in the market or consumed by excessive transaction costs.

65. The unsuitable and excessive trading in Investor C’s accounts is further



demonstrated by an analysis of the average length of time that each security was held before being sold. Looking at both of Investor C's accounts, 33.3 percent of the securities were sold within thirty days of having been purchased. Moreover, 66.7 percent of the securities were sold within ninety days of their purchase, as illustrated by the tables below:

<b>Days Held</b>	<b>Account 1652 and 1654 (# of Transactions/ % of Total)</b>	
<b>0-30 Days</b>	37	33.33%
<b>31-60 Days</b>	23	20.72%
<b>61-90 Days</b>	14	12.61%
<b>90+ Days</b>	37	33.33%
<b>Total</b>	111	100%

66. Among the unsuitable short-term trades which Block recommended to Investor C were the following:

- a. The purchase of 80 units of the SPDR S&P 500 exchange-traded fund on March 18, 2015 and their sale a week later on March 25, 2015;
- b. The purchase of 3,500 shares of Kodiak Oil & Gas Company on June 20, 2014 and their sale a month later on July 21, 2014; and
- c. The purchase of 2,600 shares of Harmony Gold Mining on March 26, 2014 and their sale sixteen days later on April 11, 2014.

67. On or about June 29, 2015, Investor C filed a FINRA arbitration against Oppenheimer and National, alleging that Block had engaged in unsuitable and excessive trading in her accounts at both firms. As a result of that FINRA arbitration and prior to hearing, both Oppenheimer and National settled Investor C's claims. On or about May 31, 2016, Oppenheimer agreed to pay Investor C \$60,000, and on June 1, 2016, National agreed to pay Investor C \$90,000.

### **Delaware Actions Related to Investor A**

68. On August 28, 2015, the Delaware Investor Protection Unit filed a complaint alleging that, in the accounts of Investor A, Block engaged in: (a) securities fraud-churning; (b) dishonest or unethical practices-excessive trading; (c) securities fraud-unsuitable recommendations; (d) dishonest or unethical practices-unsuitable recommendations; (e) dishonest or unethical practice-narcotics use; and (f) dishonest or unethical practice-failure to address mental instability notification.

69. On October 14, 2016, the Delaware Investor Protection Unit (“Delaware IPU”) entered into a Consent Order (“Delaware Consent Order”) with Block for his conduct related to Investor A. In the Delaware Consent Order, Block consented to a three-year suspension as a broker-dealer agent and investment adviser representative in the State of Delaware, retroactive to March 2014, and voluntarily relinquished his right to apply for future registration in Delaware.

70. On June 10, 2015, after an investigation, Delaware IPU entered into a separate Consent Order with Janney Montgomery related to Block’s excessive trading of Investor A’s accounts. The Consent Order ordered Janney Montgomery to pay a fine of \$75,000 and to reimburse the Delaware IPU \$30,000 for its investigative costs.

71. On June 25, 2015, after an investigation, Delaware IPU entered into a separate Consent Order with Oppenheimer related to Block’s excessive trading of Investor A’s accounts. The Consent Order found that Oppenheimer failed to supervise Block’s conduct and ordered Oppenheimer to pay \$685,000 to the “Delaware Investor Protection Fund.”

### **Block Is Statutorily Disqualified by FINRA**

72. As a result of the Delaware Consent Order, Block became statutorily disqualified pursuant to Article III, Section 4 of the FINRA By-Laws, which states that a person is subject to a

"disqualification" with respect to membership, or association with a member, if such person is subject to any "statutory disqualification" as such term is defined in Section 3(a)(39) of the Exchange Act, which includes bars by state securities regulators and/or a final order based on violations of fraudulent conduct.

73. On November 15, 2016, First Standard filed a Membership Continuance Application ("Application") with the FINRA Department of Registration and Disclosure. The Application had requested that FINRA permit Block to continue to associate with First Standard, despite the fact that Block was statutorily disqualified.

74. On March 13, 2018, First Standard terminated Block after the FINRA National Adjudicatory Council ("NAC") determined that, pursuant to FINRA Rule 9524(b)(3), Block was statutorily disqualified from associating with a FINRA member firm and that it was not in the public interest for Block to continue to associate with a FINRA member firm.

75. On March 13, 2018, the FINRA National Adjudicatory Council ("NAC") issued a Notice Pursuant to Section 19(d) of the Securities Exchange Act of 1934, In the Matter of the Continued Association of Gabriel Block as a General Securities Representative with First Standard Company, LLC, SD-2137 ("NAC Decision") that concluded that Block was statutorily disqualified from associating with a FINRA member firm and that it was not in the public interest for Block to continue to associate with a FINRA member firm. The NAC based its decision upon, among other things, the seriousness and recency of the allegations underlying the Delaware Consent Order, and Block's additional regulatory history. Block was terminated by First Standard on the same day the NAC Decision was issued.

76. On April 9, 2018, Block and First Standard filed an Application For Review of the FINRA NAC Decision in SD-2137 ("SEC Appeal") before the U.S. Securities and Exchange

Commission (“SEC”). The SEC Appeal alleged, among other things, that “the NAC abused its authority and discretion by making unfair and arbitrary findings and conclusions constituting a bar against association by Block that was unsupported by facts and the law.”

77. On September 28, 2018, the SEC dismissed the SEC Appeal as abandoned. The basis for dismissal included that Block and First Standard failed to file a brief in support of the SEC Appeal by the deadline established or to request an extension, and also failed to file a response brief to a FINRA motion.

**Block Is Suspended by FINRA**

78. On or about November 15, 2016, Oppenheimer filed a Statement of Claim for the FINRA arbitration, In the Matter of the Arbitration Between: Oppenheimer & Co., Inc. vs. Gabriel Block, Case Number 15-03079 (“FINRA Arbitration”). Oppenheimer asserted, among other things, that Block failed to repay promissory notes due to Oppenheimer and failed to repay Oppenheimer for a settlement of a client complaint.

79. As a result of the FINRA Arbitration, the arbitration panel decided, among other things, that: (1) Block was liable in the amount of \$451,232.51 to Oppenheimer in compensatory damages; (2) Block was liable for interest on the sum of \$370,714.24 at the rate of 14% per annum from March 14, 2014 until the award is paid in full; (3) Block was liable in the amount of \$3,004.72 to Oppenheimer in costs; and (4) Block was liable in the amount of \$125,039.40 to Oppenheimer in attorney’s fees.

80. On January 15, 2019, FINRA suspended Block pursuant to Article VI, Section 3, of the FINRA By-Laws and FINRA Rule 9554 “for failure to comply with an arbitration award or settlement agreement or to satisfactorily respond to a FINRA request to provide information concerning the status of compliance.”

## CONCLUSIONS OF LAW

### BLOCK ENGAGED IN DISHONEST OR UNETHICAL BUSINESS PRACTICES IN THE SECURITIES BUSINESS

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)

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

82. 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.

83. Pursuant to N.J.A.C. 13:47A-6.3(a)(2):

Dishonest or unethical practices as used in N.J.S.A. 49:3-47 et seq . . . shall include . . . [i]nducing trading in a customer's account that is excessive in size or frequency in view of the financial resources and character of the account.

84. As demonstrated above, Block engaged in dishonest or unethical practices in the securities business by inducing trading in his clients' accounts that was excessive in size and frequency in view of the financial resources and character of the accounts.

85. This is cause, pursuant to N.J.S.A. 49:3-58(a)(2)(vii), to revoke Block's agent registration.

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

**BLOCK ENGAGED IN DISHONEST OR UNETHICAL BUSINESS PRACTICES**

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)

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

88. 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.

89. Pursuant to N.J.A.C. 13:47A-6.3(a)(3):

Dishonest or unethical practices' as used in N.J.S.A. 49:3-47 et seq . . . shall include . . . [r]ecommending 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.

90. As demonstrated above, Block engaged in dishonest or unethical practices in the securities business by recommending to Investors A, B, and C purchases and sales of securities without reasonable grounds to believe that the strategies, transactions, and recommendations were suitable for these customers based upon reasonable inquiry concerning the customers' investment objectives, financial situation, and needs, as well as all relevant information known to Block.

91. This is cause, pursuant to N.J.S.A. 49:3-58(a)(2)(vii), to revoke Block's agent registration.

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

**BLOCK ENGAGED IN A DEVICE, SCHEME, OR ARTIFICE TO DEFRAUD,  
IN VIOLATION OF N.J.S.A. 49:3-52 (a)**

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

94. Block's unsuitable and excessive trading in the accounts of Investors A, B, and C constituted repeated violations of N.J.S.A. 49:3-52(a), which prohibits "any device, scheme, or artifice to defraud."

95. Each violation of N.J.S.A. 49:3-52(a) 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.

**BLOCK ENGAGED IN AN ACT, PRACTICE, OR COURSE OF BUSINESS WHICH  
OPERATES OR WOULD OPERATE AS A FRAUD OR DECEIT UPON ANY PERSON,  
IN VIOLATION OF N.J.S.A. 49:3-52(c)**

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

97. Block's unsuitable and excessive trading in the accounts of Investors A, B, and C constituted repeated violations of N.J.S.A. 49:3-52(c), which prohibits persons from engaging in "any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person."

98. 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.

**BLOCK 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)

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

100. 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 . . .

101. Having been subject to a statutory disqualification from FINRA, which is akin to a bar, Block 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 Block's agent registration, and to deny certain exemptions.

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

**BLOCK IS THE SUBJECT OF AN ORDER OF A SELF-REGULATORY  
ORGANIZATION SUSPENDING 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)

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

104. 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 . . .

105. Block has been suspended by FINRA “for failure to comply with an arbitration award or settlement agreement or to satisfactorily respond to a FINRA request to provide information concerning the status of compliance.”

106. This is cause, pursuant to N.J.S.A. 49:3-58(a)(2)(vi), to revoke Block’s agent registration, and to deny certain exemptions.

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

### CONCLUSION


For the reasons stated above, it is on this 15<sup>th</sup> day of May 2019 **ORDERED** that:

108. The agent registration of Block is **REVOKED**;

109. Block is assessed and liable to pay civil monetary penalties in the amount of \$750,000, 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.”

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

111. 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 Block.

  
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Christopher W. Gerold  
Chief, New Jersey 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 et seq., 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, 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 a final order 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.