NASDAQ PHLX LLC
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NOS. 2011029713014 & 2012033667305

TO: Nasdaq PHLX LLC
c/o Department of Enforcement
Financial Industry Regulatory Authority ("FINRA")

RE: Lek Securities Corporation, Respondent
Member Firm
CRD No. 33135

Samuel Frederik Lek, Respondent
Associated Person
CRD No. 1642936

Pursuant to Rule 9216 of Nasdaq PHLX LLC ("PHLX") Code of Procedure, Lek Securities Corporation ("LSCI" or the "Firm") and Samuel Frederik Lek ("Lek," and together with LSCI, "Respondents") submit this Letter of Acceptance, Waiver and Consent ("AWC") for the purpose of proposing a settlement of the alleged rule violations described below. This AWC is submitted on the condition that, if accepted, PHLX will not bring any future actions against the Respondents alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

A. Respondents hereby accept and consent, without admitting or denying the findings, and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of PHLX, or to which PHLX is a party, prior to a hearing and without an adjudication of any issue of law or fact, to the entry of the following findings by PHLX:

Summary of Action

1. This matter stems from an investigation by FINRA's Department of Market Regulation, on behalf of multiple exchanges, including PHLX, which found that between October 1, 2010 and June 30, 2015 (the "Equities Market Review Period"), LSCI and Lek aided and abetted manipulative trading ("layering") by "Avalon," a customer of the Firm whose master-sub account was known as "the Avalon account." LSCI also aided and abetted Avalon in the operation of an unregistered broker-dealer through the Avalon account. In addition, LSCI committed, and Lek caused, Market Access Rule violations; LSCI and Lek committed supervisory violations; and LSCI committed numerous ancillary violations concerning retention of electronic communications, and other supervisory violations pertaining to the failure to conduct periodic examinations of customer accounts, review of electronic communications,

Central Registration Depository ("CRD") information, and outside business activities. The violations occurred on numerous exchanges, including PHLX.

2. Between August 1, 2012 and June 30, 2015 (the "Options Market Review Period"), LSCI and Lek provided direct market access to non-registered options market participants to multiple market centers, including PHLX. While providing such access, LSCI and Lek aided and abetted manipulative options trading in the Avalon account.

3. Taken together, the various violations demonstrate that LSCI and Lek knowingly or with extreme recklessness aided and abetted the misconduct occurring in the Avalon account throughout the relevant periods simply because the Avalon account brought in sufficient business to the Firm to make it profitable, notwithstanding numerous red flags and ongoing investigations into the activity by FINRA, the Securities and Exchange Commission ("SEC"), PHLX and other exchanges.

Respondents and Jurisdiction

4. LSCI is a Delaware corporation headquartered in New York, NY, and has been registered with FINRA since April 1, 1996, and with Nasdaq PHLX since November 13, 1995. LSCI operates as an independent order-execution and clearing firm providing customers direct market access to numerous exchanges. LSCI is a member of the following securities exchanges that are relevant to this AWC: The NASDAQ Stock Market LLC ("Nasdaq"); NASDAQ BX, Inc. ("BX"); NYSE LLC ("NYSE"); NYSE Arca, Inc. ("NYSE Arca"); NYSE American LLC, formerly NYSE MKT LLC and AMEX LLC ("NYSE American"); Cboe Exchange, Inc. ("Cboe"); Cboe BZX Exchange, Inc. ("BZX"); Cboe BYX Exchange, Inc. ("BYX"); Cboe EDGA Exchange, Inc. ("EDGA"); Cboe EDGX Exchange, Inc. ("EDGX"); and NASDAQ ISE, LLC, formerly the International Securities Exchange, LLC ("ISE"). PHLX has jurisdiction over LSCI because it is currently registered as a PHLX-member firm, and it committed the misconduct at issue while a member.

5. Lek has been employed in the securities industry since August 1986, and founded the Firm in January 1990. At all times during the relevant periods, Lek has been the owner, CEO, and Chief Compliance Officer ("CCO") of LSCI. Lek became registered with PHLX as a General Securities Representative with LSCI on October 9, 2010. Lek was registered in such capacity, as well as in other capacities, with LSCI during the relevant periods. He was registered at PHLX with LSCI until October 7, 2019, when LSCI filed a Form U5 terminating Lek's registration with PHLX. Although Lek is no longer registered or employed with a PHLX member firm, he remains subject to PHLX jurisdiction for purposes of this proceeding pursuant to PHLX Rule 8310, because (1) the Complaint was filed prior to the effective date of termination of Lek's registration with PHLX, and (2) the Complaint charges him with misconduct committed while he was registered with PHLX.

Statement of Facts

a. Background

Master-Sub Account Structure

6. In the master-sub account trading model, a top-level customer typically opens an account with a registered broker-dealer (the "master account") that permits the customer to have subordinate accounts for different trading activities (the "sub-accounts"). The master account is usually subdivided into sub-accounts for the use of individual traders or groups. In some instances, the sub-accounts are further divided to such an extent that the master account customer and the registered broker-dealer with which the master account is opened may not know the actual identity of the underlying traders.[1]

7. Although master-sub account arrangements may be used for legitimate business purposes, some customers who seek to use master-sub account relationships structure their account with a broker-dealer in this fashion in an attempt to avoid or minimize regulatory obligations and oversight.[2]

8. A sub-account trader may, for example, open multiple accounts under a single master account and proceed to effect trades on both sides of the market to manipulate a stock price by entering orders to drive the price up, mark the close, or engage in other manipulative activity. Such conduct may create the false appearance of activity or volume and, as a result, may fraudulently influence the price of a security.[3]

Origins of the Avalon Account at LSCI

9. Genesis Securities, LLC ("Genesis") was previously a broker-dealer and a member of FINRA. Sergey Pustelnik a/k/a Serge Pustelnik ("Pustelnik") was previously a registered representative at Genesis.

10. Pustelnik handled the Regency Capital ("Regency") account at Genesis, which was a focus of a FINRA investigation into the operation of unregistered broker-dealers through master-sub accounts. The Regency account was a master-sub account that provided market access to foreign traders. One of its sub-accounts was called "Avalon."

11. The Avalon sub-account, in turn, was a master-sub account with sub-accounts in which Russian and Ukrainian individuals traded. The Avalon group of traders was originally brought to the Regency account by "NF," who was a close friend of Pustelnik, and "AL," who was Pustelnik's brother-in-law.

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[1] SEC Office of Compliance Inspections and Examinations National Exam Risk Alert, Vol. 1, No. 1, pp. 1-2 (Sept. 29, 2011).

[2] *Id.*

[3] *Id.*, pp. 6-7.

12. While at Genesis, Pustelnik had an assistant, "SVP," who received paychecks from Avalon.

13. On September 8, 2010, in the midst of ongoing investigations by the Bats exchanges, FINRA, and the SEC, Pustelnik's registration with Genesis was terminated.

14. On September 16, 2010, Genesis closed the Regency account, including the Avalon sub-account.

15. NF, who was not registered, became the manager of a newly-incorporated, purportedly foreign entity called Avalon FA, Ltd.

16. In October 2010, Pustelnik brought the Avalon traders to LSCI, followed by AL and SVP, who were hired by LSCI in December 2010 and January 2011, respectively. The Avalon account at LSCI was opened under the name Avalon FA, Ltd.

17. SVP was hired to be Pustelnik's assistant, and AL was hired to be the registered representative on the Avalon account.

18. In migrating the Avalon account to LSCI, Pustelnik was paid as a putative "foreign finder" for LSCI, although he was a U.S. citizen.

19. On March 11, 2011, Pustelnik became a registered representative with LSCI.

20. Thus, Avalon, as referred to herein, is both a legal entity[4] and a group of traders trading through Avalon's account at LSCI.

21. Following the departure of Avalon from Genesis, Genesis withdrew its application for membership with NYSE on January 20, 2011; was terminated from Nasdaq and BX on August 8, 2011; expelled from BZX and BYX on May 14, 2012; and its membership revoked from EDGA and EDGX on May 16, 2012 for various supervisory violations. The violations included failing to conduct adequate reviews for potentially manipulative trading activity; failing to subject to heightened review accounts that posed increased risk, either because of the accountholder's regulatory history, country of origin, employment status, or because of trading in the account that was the subject of regulatory inquiries; and for failing to supervise and establish adequate Written Supervisory Procedures ("WSPs") to address, *inter alia,* master sub-account arrangements, the use of foreign finders, and review of transactions for suspicious activity.

22. On May 21, 2012, Genesis was expelled from FINRA for, *inter alia,* willful violations of Section 15(A)(1) of the Securities Exchange Act of 1934 (the "Exchange Act"), aiding and abetting such violations, willful violations of SEC Rule 17a-4, and supervisory violations based upon findings that the firm and its CEO operated two unregistered broker-

[4] Avalon actually uses two legal entities as alter egos: Avalon FA, Ltd., a purported foreign corporation, and Avalon Fund Aktiv, a U.S. corporation.

dealers through master and subaccount arrangements at the firm, even though the firm and its CEO were aware that the subaccounts had different beneficial owners, that the master accounts charged the subaccounts transaction-based compensation, and that the master account profited by charging commission rates that were higher than the rates they paid to the firm.

23. On January 21, 2015, Pustelnik was barred from the industry by FINRA for violating FINRA Rule 8210 when he refused to provide a copy of emails in his personal email account – an account he used for business purposes at LSCI – in response to a FINRA Market Regulation request in this matter.

24. On June 12, 2015, AL was barred from the industry by FINRA for refusing to testify in this matter after asserting his Fifth Amendment privilege against self-incrimination.

Layering, Cross-Product Manipulation ("Mini-Manipulation"), and Spoofing

25. Layering is a form of market manipulation that typically includes placement of multiple limit orders on one side of the market at various price levels at or away from the National Best Bid and Offer ("NBBO") that are intended to create the appearance of a change in the levels of supply and demand. In some instances, layering involves placing multiple limit orders at the same or varying prices across multiple exchanges or other trading venues. An order is then executed on the opposite side of the market and most, if not all, of the multiple limit orders are immediately cancelled. The purpose of the multiple limit orders that are subsequently cancelled is to induce, or trick, other market participants to enter orders due to the appearance of interest created by the orders such that the trader is able to receive a more favorable execution on the opposite side of the market.[5]

26. The multiple limit orders that are cancelled are termed "non-bona fide" herein, while the executed orders are termed "bona fide." Non-bona fide orders refers to orders that a trader does not intend to have executed; rather, they are intended to inject false information into the marketplace about supply and demand for the security at issue and thereby induce other market participants to execute against the bona fide orders (*i.e.,* orders that the trader intends to have executed) for the same security on the opposite side of the market.

27. The false appearance of supply and demand typically pushes the price in a direction favorable to the trader, and permits the trader to obtain better prices on the bona fide

[5] *See, e.g.,* FINRA Press Release (Sept. 25, 2012) ("FINRA Joins Exchanges and the SEC in Fining Hold Brothers More Than $5.9 Million for Manipulative Trading, Anti-Money Laundering, and Other Violations") (re: *In the Matter of Hold Brothers On-Line Inv. Svcs., LLC*, Admin. Proc. No. 3-15046 (Sept. 25, 2012)). Two years prior to the *Hold Brothers* press release, FINRA issued a press release announcing fines and sanctions against Trillium Brokerage Services and others. *See* FINRA Press Release (Sept. 13, 2010) ("FINRA Sanctions Trillium Brokerage Services, LLC, Director of Trading, Chief Compliance Officer, and Nine Traders $2.26 Million for Illicit Equities Trading Strategy") (re: *Trillium Brokerage Services, LLC*, FINRA STAR No. 20070076782-01 (Aug. 5, 2010). In doing so, the *Trillium* press release stated that the firm "entered numerous layered, non-bona fide market moving orders to generate selling or buying interest in specific stocks. By entering the non-bona fide orders, often in substantial size relative to a stock's overall legitimate pending order volume, Trillium traders created a false appearance of buy- or sell-side pressure." *Id*.

orders, or better prices for that quantity and at that point in time, than would otherwise be available.

28. When both the non-bona fide cancellations and bona fide executions constituting an instance of layering occur through the same Market Participant Identifier ("MPID"), it is termed a "single-participant" instance. When the non-bona fide cancellations occur through a different MPID than the MPID used for the bona fide executions, it is termed a "pair-participant" instance.

29. Cross-product manipulation," or "mini-manipulation," is a disruptive and manipulative practice whereby a trader engages in the manipulation of option prices through trading in the underlying equities in a short time period. A trader enters trades and ultimately effects transactions in equity securities to create a false, misleading, or artificial appearance in the price of the securities and options overlying those securities. Those transactions trigger activity and price movement in the equity securities, which in turn impacts the price of the overlying equity options and enables the trader to purchase or sell the equity options at more favorable prices than would have been available had the triggering transactions not been entered.

30. "Spoofing" is a form of manipulative trading that involves a market participant placing non-bona fide orders, generally inside the existing NBBO, with the intention of briefly triggering some type of response from another market participant, followed by cancellation of the non-bona fide order, and the entry of an order on the other side of the market.[6]

31. LSCI and Lek profited from the layering, cross-product manipulation and spoofing schemes through receipt of commissions from Avalon's trading.

b. <u>Manipulative Equities Trading (Layering) in the Avalon Account</u>

32. From November 2010 through June 2015, Market Regulation's layering surveillance patterns detected more than 1.7 million instances of layering at LSCI.

33. Specifically, between November 2010 and July 2012, Market Regulation's exchange-specific surveillance patterns detected 5,538 instances of "single-participant" instances of layering, *i.e.,* an execution on one side of the market (a bona fide order) that was quickly followed by a number of cancelled orders on the other side of the market (non-bona fide orders), where *both the execution and cancellations* occurred through the same LSCI MPID.[7]

34. After implementing a cross-market surveillance pattern beginning in August 2012 (that is, surveilling for an instance of layering where the execution and cancelled orders occurred

[6] Dodd-Frank Wall Street Reform and Consumer Protection Act §747(5) states: "DISRUPTIVE PRACTICES.—It shall be unlawful for any person to engage in any trading, practice, or conduct on or subject to the rules of a registered entity that . . . (C) is, is of the character of, or is commonly known to the trade as, 'spoofing' (bidding or offering with the intent to cancel the bid or offer before execution)."

[7] The surveillance patterns count each layering bona fide execution as an instance of layering, regardless of the number of non-bona fide cancellations. Only instances that meet alert criteria, however, are counted.

on more than one exchange),[8] Market Regulation detected, through the end of June 2015, an additional 1,213,658 instances of single-participant layering at LSCI.

35. The cross-market surveillance pattern also detected 485,011 "paired-participant" instances of layering during the same period, *i.e.,* an execution on one side of the market that was quickly followed by a number of cancelled orders on the other side of the market, *where the execution but not the cancellations* occurred through an LSCI MPID.

36. As part of its investigation, FINRA requested trading data from LSCI in 224 stock symbols involved in the reported layering. Review of the trading data confirmed that each instance reflected *actual* layering activity (except where the trading data provided by LSCI was insufficient to make that determination); *i.e.,* multiple orders were placed on one side of the market at various price levels at or away from the NBBO, creating the appearance of a change in the levels of supply and demand, and triggering the price of the security to move. An order was then executed on the opposite side of the market at the artificially created price and most, if not all, of the remaining orders were immediately cancelled. While both the bona fide executions and non-bona fide cancellations occurred in LSCI accounts, transactions were often routed to multiple exchanges, *i.e.,* cross-market. In total, actual layering activity was confirmed in 217 of the 224 symbols..

37. The trading data for the 224 symbols also reveals the prominent role the Avalon account played in the layering activity at LSCI with respect to the selected symbols. Avalon was involved to some extent in almost all layering activity (in 215 of the 217 symbols) and dominated it in most instances (in 148 of the 215 symbols, at least 95% of all transactions, *i.e.,* cancellations or executions, involved Avalon; in 198 of the 215 symbols, at least 50% of all transactions involved Avalon).

38. Indeed, Avalon blotter data, mapped into the cross-market data, confirms the role of the Avalon account in the layering activity at LSCI. In the aggregate, Avalon was involved in 526,052 instances of single-participant layering and 95,515 instances of paired-participant layering across multiple exchanges during the cross-market surveillance period.

39. Thus, the Avalon account was involved in approximately 43% of all single-participant layering instances and in approximately 20% of all paired-participant layering instances where the executions occurred at LSCI. The Avalon account was also used in approximately 81% of all single-participant cancellations and 72% of all paired-participant cancellations detected at LSCI.

40. Significantly, LSCI was responsible for just 0.07% of cross-market order flow volume among all market participants during the cross-market surveillance period, but for 14.79% of all non-bona fide cancellations. Further, during the same period, *one out of every 13*

[8] The cross-market surveillance period began in August 2012 for some exchanges but as late as October 2014 for others.

orders at LSCI was non-bona fide; for all other market participants, the ratio was *one out of every 3,143 orders*.[9]

41. Below are examples of layering activity in the Avalon account during the Equities Market Review Period.

Trading in GGGG on March 21, 2012

42. On March 21, 2012, at 9:39:01, the NBBO for GGGG was $14.20 (300 shares) x $14.23 (200 shares).

43. From 9:39:14 to 9:39:15, Avalon placed two orders to sell short a total of 2,000 shares at $14.28.

44. Beginning just two seconds later, from 9:39:17 to 9:39:58, Avalon placed 105 buy orders (100 shares each) totaling 10,500 shares, with prices increasing from $14.16 to $14.27, and purchased 1,300 shares at prices ranging from $14.23 to $14.27 based on the entry of these orders.

45. At 9:39:58, the NBBO became $14.27 (400 shares) x $14.28 (1,000 shares).

46. From 9:39:58 to 9:39:59, Avalon received nine executions on its short sell orders totaling 2,000 shares at $14.28.

47. Beginning a second later, from 9:40:00 to 9:40:08, Avalon cancelled 92 buy orders (100 shares each) totaling 9,200 shares.

48. Thus, as a result of Avalon's layering, which occurred during a span of 54 seconds, Avalon executed its short sale of 2,000 shares at $14.28, which was a higher price than it would have received in the absence of such layering.

Trading in HHHH on July 11, 2013

49. On July 11, 2013, at 12:54:02.808, the NBBO for HHHH was $38.95 (500 shares) x $38.96 (900 shares).

50. From 12:54:04.000 to 12:54:07.000, Avalon placed nine orders to buy a total of 900 shares at prices ranging from $38.96 to $38.97.

51. Beginning two seconds later, at 12:54:09.000, Avalon placed three orders to sell a total of 6,000 shares at $38.98. In doing so, Avalon only displayed 1,200 of the shares as available for execution; the remaining 4,800 shares were non-displayed.

[9] These numbers consider all instances of layering, not just those meeting alert criteria.

52. Within the next second, at 12:54:09.746, the NBBO became $38.97 (1,200 shares) x $38.98 (400 shares).

53. From 12:54:10.000 to 12:54:11.000, Avalon received 17 executions on its sell-side orders totaling 6,000 shares at $38.98.

54. At the same time, from 12:54:10.000 to 12:54:11.000, Avalon cancelled all of the nine buy-side orders.

55. At 12:54:11.135, the NBBO became $38.96 (100 shares) x $39.00 (1,700 shares).

56. Thus, as a result of Avalon's layering, which occurred during a span of seven seconds, Avalon executed its sale of 6,000 shares at $38.98, which was a higher price than it would have received in the absence of such layering.

Trading in DDDD on June 6, 2014

57. On June 6, 2014, at 9:48:23.698, the NBBO for DDDD was $155.85 (400 shares) x $156.04 (100 shares).

58. From 9:48:29.000 to 9:48:30.000, Avalon placed 12 orders to sell short 100 shares each at limit prices ranging from $156.02 to $156.07.

59. Three seconds later, at 9:48:33.000, Avalon entered three orders (1,000 shares each) to buy at a limit price of $155.88. In doing so, Avalon only displayed 300 shares of buy orders for execution; the remaining 2,700 shares of buy orders were non-displayed.

60. A fraction of a second later, at 9:48:33.244, the NBBO became $155.88 (100 shares) x $156.02 (100 shares).

61. From 9:48:34.000 to 9:48:35.000, Avalon received 23 buy-side executions totaling 2,500 shares at a price of $155.88 per share. Avalon cancelled the remainder of the buy-side orders.

62. From 9:48:35.000 to 9:48:36.000, Avalon cancelled all of the 12 short sale orders.

63. At 9:48:37.956, the NBBO became $155.81 (100 shares) x $156.02 (100 shares).

64. Thus, as a result of Avalon's layering, which occurred during a span of seven seconds, Avalon executed its purchase of 2,500 shares at $155.88, which was a lower price than it would have paid in the absence of such layering.

Manipulative Intent of Avalon

65. The nature of the layering activity, the staggering frequency with which it occurred, and the absence of a legitimate economic purpose for such activity shows manipulative intent by Avalon.

66. Emails show that, in July 2012, Avalon opened an account for "DT," who claimed to represent a group of traders from China. DT had previously emailed Lek inquiring about opening an account at LSCI in which to engage in layering. While Lek appeared to decline opening the account, Avalon did not.[10]

67. Avalon also indicated its intent to permit its traders to engage in layering in a skype chat dated March 20, 2013 with a potential customer, if the price were right: "commission is standard, layering is VERY expensive now, and we pay very big legal bills to protect this. A lot of firms don't have this ability and kick traders out. we do." [sic]. This chat was included in an email dated May 7, 2013 from Avalon FA to the same potential customer in which Avalon also set the price for layering: "if you need layering strategies and around 2mm bp per account, 2000 is per account. . . ."

68. Further, Avalon's website, as of March 2013, indicated Avalon's intent to permit its traders to engage in layering by implying that it was a safe haven for traders wishing to engage in manipulative trading, notwithstanding regulatory risks. For example, Avalon stated on the English-language version of its website that it would not "blindly shut down anything we don't necessarily like" and that "[t]here isn't a time where our traders are 'kicked out' just because someone somewhere doesn't understand or like something. That's the power of trading with a leader."[11]

69. Avalon also stated on its website in August 2013 that: "Our compliance team works hard every day to ensure that our traders are able to trade the way they need. When our internal team our [sic] not enough, we do not hesitate to employ outside law firms to help us defend or promote a certain trading strategy. Many of our attorneys are on retainer and we are ready to fight for what we believe is just and compliant trading."

70. Avalon did not disclose on its website, however, the identity of its "compliance team." In reality, Avalon had no compliance team and generally relied on LSCI and Lek for all compliance issues.

71. Thus, Avalon touted on its website that it had a compliance team that would defend and promote its traders' unlawful trading strategies, rather than a team that would ensure

[10] Lek appears to have declined opening the account due to insufficient trading volume, not the proposed layering activity.

[11] http://www.avalonfaltd.com captured on the English version of the website 2013.03.21. The statement appears in the Professional Compliance section of the web page.

compliance with applicable securities laws and regulations. In fact, it had no compliance team at all. This is consistent with Avalon's intent to permit manipulative trading through LSCI.

LSCI and Lek Provided Substantial Assistance

72. During the Equities Market Review Period, both LSCI and Lek provided substantial assistance to Avalon's traders in furtherance of their manipulative layering activity.

73. LSCI and Lek provided Avalon traders access to United States markets ("market access") by permitting the Avalon master account to use an LSCI MPID and an additional MPID provided to LSCI by another market access provider[12] to transmit orders to the exchanges throughout the relevant period.

74. LSCI and Lek also provided office space, computer servers, trading software, and the services of Pustelnik and SVP to essentially manage all aspects of the Avalon account, including setting up new accounts, negotiating terms for commissions and deposits, acting as the primary contact on the account, maintaining all Avalon paperwork, tracking profits, performing back-office and accounting functions, and handling expenses and billing. By providing such market access, office space, personnel, equipment and services, LSCI and Lek provided substantial assistance to Avalon traders in furtherance of their layering activity.

75. LSCI and Lek continued to provide substantial assistance and market access for the Avalon master account and its traders notwithstanding multiple inquiries and warnings from regulators, and numerous red flags indicating the need to investigate further the manipulative activity in the Avalon account.

76. LSCI and Lek also failed to implement, prior to February 2013, any layering controls for the Avalon account.

77. On February 1, 2013, after FINRA submitted multiple information requests regarding LSCI's layering controls, LSCI implemented so-called "Q6" controls ostensibly to curtail layering activity.

78. The Q6 controls blocked orders where the difference, or "delta," between the number of orders on one side of the market exceeds the number of orders on the other side of the market.

79. LSCI and Lek, however, disclosed the nature and parameters of the Q6 controls to NF and thereby overtly permitted Avalon to circumvent the controls.

80. The default delta for the controls was 10, but it was adjustable. LSCI originally implemented the controls at the default delta.

81. Lek testified that, once implemented, the Q6 controls "virtually had the effect of shutting down" Avalon.

[12] Through Dec. 1, 2013.

82. Avalon then requested LSCI increase the delta to 75. The next week, LSCI increased the delta for Avalon to 100.

83. By disclosing the nature of the Q6 controls to Avalon and adjusting its delta upon Avalon's request, LSCI and Lek provided further substantial assistance to Avalon to continue and increase its layering activity.

LSCI and Lek Acted with Scienter

LSCI and Lek Were Aware that Layering Was an Illicit Trading Strategy

84. On September 13, 2010 – prior to the Avalon account being transferred to LSCI – FINRA announced in a press release that it had censured and fined Trillium Brokerage Services, LLC ("Trillium") for engaging in an "illicit" trading strategy that involved the entry of "numerous layered, non-bona fide market moving orders to generate selling or buying interest in specific stocks." FINRA further explained that "[b]y entering the non-bona fide orders, often in substantial size relative to a stock's overall legitimate pending order volume, Trillium traders created a false appearance of buy- or sell-side pressure."[13]

85. On February 8, 2012, Lek sent an email to an LSCI employee, "NL," who, in turn, forwarded the email to Pustelnik. The subject line in the email was "HF Trading" and it included the following statement by Lek, showing awareness of regulatory concern over layering:

> FINRA continues to be concerned about the use of so-called "momentum ignition strategies" where a market participant attempts to induce others to trade at artificially high or low prices. Examples of this activity [include] layering strategies where a market participant places a bona fide order on one side of the market and simultaneously "layers" non-bona fide orders on the other side of the market (typically above the offer or below the bid) in an attempt to bait other market participants to react to the non-bona fide orders and trade with the bona fide orders on the other side of the market. . . . FINRA has observed several variations of this strategy in terms of the number, price and size of the non bona fide orders, but the essential purpose behind these orders remains the same, to bait others to trade at higher or lower prices.

86. In an email dated September 17, 2012, NL forwarded to Lek an email he received from LSCI's Compliance Officer, AS. In the email, AS included a website link to an article in *Traders Magazine* concerning "layering-spoofing," with the notation, "Read article below . . . talks about trillium, genesis, Master-sub." The article in *Traders Magazine* described recent FINRA cases in which Trillium and nine traders settled to a censure and fine of more than $2

[13] FINRA Press Release (Sept. 13, 2010) (**"**FINRA Sanctions Trillium Brokerage Services, LLC, Director of Trading, Chief Compliance Officer, and Nine Traders $2.26 Million for Illicit Equities Trading Strategy").

million for layering and in which Genesis agreed to an expulsion and its CEO agreed to a bar for allowing master-sub account owners to operate as unregistered broker-dealers.[14]

87. On September 25, 2012, Lek received notice of an SEC press release regarding the *Hold Brothers* settlement with both the SEC and FINRA, pursuant to which Hold Brothers was fined more than $5.9 million for manipulative trading and anti-money laundering and other violations. The SEC press release defined layering as an illegal manipulation.[15]

88. Subsequent communications from various exchanges provided further notice that layering constituted illegal manipulation and was, potentially, occurring at LSCI. For example, in July 2013, Bats Global Markets advised Lek of possible layering through LSCI. In November 2013, a NYSE Hearing Board found that LSCI had violated numerous exchange rules including supervisory failures related to spoofing and that the firm did not have a system to enable it to monitor for irregular trading, wash sales or marking the close.[16] In addition, FINRA issued Wells' notices to the Firm beginning in July 2014 advising of potential manipulative trading taking place through the Avalon account. Thus, LSCI and Lek were aware that layering constituted an illicit trading strategy.

LSCI and Lek Were Aware of Red Flags
Indicating the Potential for Manipulative Activity in the Avalon Account

89. LSCI and Lek knew or recklessly disregarded information that constituted red flags alerting them to the potential for manipulative trading in the Avalon account.

90. LSCI and Lek disregarded red flags arising from Pustelnik's prior employment at Genesis when Pustelnik introduced Avalon to LSCI. As set forth above,

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[14] Traders Magazine Online News, May 24, 2012 "Regulators Finishing Probes on 'Layering,' 'Spoofing' of Trades" (Tom Steinert-Threlkeld). http://www.tradersmagazine.com/news/layering-spoofing-trades-equities-110033-1.html. The article provides the following description: "In layering, the trading firm or firms involved send out waves of false orders intended to give the impression that the market for shares of a particular security at that moment is deep…The traders then take advantage of the market's reaction to the layering of orders."

[15] SEC Press Release no. 2012-197 (Sept. 25, 2012) further defines layering:

> In layering . . . [t]raders placed a bona fide order that was intended to be executed on one side of the market (buy or sell). The traders then immediately entered numerous non-bona fide orders on the opposite side of the market for the purpose of attracting interest to the bona fide order and artificially improving or depressing the bid or ask price of the security. The nature of these non-bona fide orders was to induce other traders to execute against the initial, bona fide order. Immediately after the execution against the bona fide order, the overseas traders canceled the open non-bona fide orders, and repeated this strategy on the opposite side of the market to close out the position . . . Traders and the firms that provide them market access should not labor under the illusion that illegally layering orders amidst voluminous trading data will somehow allow them to evade detection by the SEC.

See also FINRA Press Release (Sept. 25, 2012) ("FINRA Joins Exchanges and the SEC in Fining Hold Brothers More Than $5.9 Million for Manipulative Trading, Anti-Money Laundering, and Other Violations").

[16] *Department of Market Regulation v. Lek Securities Corp.,* Proceeding No. 20110270056 (NYSE Hearing Board Nov. 14, 2013) (*on appeal).*

Pustelnik managed the Regency account at Genesis through which the Avalon trading group traded. SVP was his assistant at Genesis, and AL was associated with the Avalon trading group. Pustelnik left Genesis in September 2010, when Genesis shut down the Regency account, and Pustelnik simply migrated the Avalon account to LSCI as a foreign finder. Shortly thereafter, AL and SVP were both hired by LSCI, followed by Pustelnik in March 2011. The red flags surrounding the backgrounds of the three (*e.g.*, their association with a firm under investigation by FINRA and the SEC) and the origin of the Avalon account, however, prompted no meaningful inquiry into their backgrounds or into the trading activity that took place in the Avalon account at Genesis before it was on-boarded by LSCI or, for that matter, after it was on-boarded by LSCI.

91. LSCI and Lek also disregarded red flags associated with FINRA's press release in July 2012 regarding the Genesis settlement, which resulted in expulsion of the firm and a bar for its CEO, with findings that Genesis had allowed unregistered broker-dealers to operate through master-sub accounts. Lek testified that he read about the Genesis settlement when it was announced and knew that Pustelnik had testified in the Genesis investigation. Notwithstanding this information, no meaningful inquiry took place into the background of the three new hires or into the trading activity that took place in the Avalon account while at Genesis or LSCI.

92. LSCI and Lek also disregarded red flags that Avalon, once on-boarded, was operating as an unregistered broker-dealer at LSCI. LSCI and Lek were both aware that Avalon charged commissions to its sub-account traders and required deposits. Such practices were consistent with Avalon functioning as an unregistered broker-dealer for its sub-account holders and not consistent with Avalon simply being a trading account. Such red flags should have prompted further inquiry into the activity in the account.

93. LSCI and Lek also disregarded red flags raised by the business use of personal email accounts by the same LSCI employees who brought and then handled the Avalon account. Pustelnik used a personal email account for LSCI business purposes after he was hired, a fact known to the Firm but contrary to Firm policies. Similarly, SVP used a personal email account for LSCI business purposes after she was hired, a fact also known to the Firm.

94. In addition, other red flags arose from LSCI's installation of three separate Avalon servers in its New York office, only one of which was accessible to LSCI officers. By allowing the installation of non-firm servers for Avalon-related business, LSCI and Lek disregarded the red flags associated with a purported foreign customer acting as a broker-dealer whose servers were actually located in the U.S., were not under the direct control of the purported foreign broker-dealer, and were not accessible to supervisors of LSCI but to a registered representative whose background presented its own red flags.

LSCI and Lek Were Aware that Layering Was Occurring in the Avalon Account and Demonstrated the Ability to Prevent It

95. On July 30, 2012, FINRA issued a request for documents to LSCI on behalf of NYSE Arca, and a second one on September 11, 2012, specifically inquiring about the trading in the Avalon account and seeking a "more fulsome explanation" as to how such trading was not consistent with the manipulative practice known as layering. Lek responded on September 27, 2012, stating its customer's firm, *i.e.,* Avalon, was engaged in "market making."

96. On November 27, 2012, Lek received an email from another broker-dealer (which provided sponsored access to LSCI) stating, "Sam, please see attached emails from FINRA, who is alleging layering through Lek Securities."

97. During a phone call on or about July 23, 2013, BZX Market Regulation explained to LSCI that LSCI was triggering a substantial number of layering alerts through its MPID and requested that LSCI and Lek put a stop to the layering activity or BZX would be forced to take steps to terminate LSCI's access to BZX.

98. Immediately after this conversation, the LSCI layering alerts detected by BZX Market Regulation (using an exchange-specific surveillance pattern) decreased from hundreds per day to zero or near-zero. For example, on July 23, 2013, there were 1,247 instances of layering (or potential layering) detected on the BZX exchange. By July 29, 2013, there were none. Further, there were only 16 instances of layering (or potential layering) detected on BZX over the next twelve months. The alerts similarly decreased on BYX.

99. By August 2013, Market Regulation's investigation of LSCI's trading had grown to more than thirty separate matters, nearly all of which involved trading by Avalon.

100. On August 20, 2013, the Executive Vice President of FINRA Market Regulation, on behalf of FINRA and eight client exchanges, issued a warning letter to LSCI and Lek. The letter advised both LSCI and Lek that:

> Market Regulation continues to have serious concerns with the Firm's supervision of its direct market access customers, its regulatory risk management controls, its ability to detect and prevent violative activity, and its supervisory procedures in connection with the market access it provides. In addition to these concerns, Market Regulation is particularly concerned with orders, executions and cancellations relating to Lek customers, **specifically including but not limited to, Avalon FA, Ltd ("Avalon") . . .** Market Regulation expects the Firm to act promptly to address the foregoing. [Emphasis in original.]

101. Following the Bats and FINRA warning letters, LSCI's layering activity through the BZX and BYX exchanges remained at very low levels. Approximately one year later, layering activity began to increase.

102. The decrease in layering activity on BZX and BYX after regulators threatened to terminate market access, followed by a resumption of that activity approximately one year later, demonstrates that LSCI and Lek knew that layering was occurring in LSCI accounts (including Avalon) and that they had the ability to prevent it if they so desired.

LSCI and Lek Were Aware the Firm had a Reputation for Permitting Layering

103. Both LSCI and Lek were also aware that the Firm had a reputation for allowing persons and entities, outside United States regulatory oversight, to engage in manipulative trading, including layering, within United States markets.

104. In an email sent to Lek and other LSCI officials on October 26, 2012, by BW, on behalf of a Chinese trading group, BW inquired "about your open polic[y] with layering[,]" indicating that LSCI had a reputation for allowing customers to engage in such manipulative trading:

> [W]e are a group having many Chinese traders would approach for the last few months by many US and Canadian affiliates who clear through you. They ALL say the especially Ms. [SL] in Montreal and others who clears with you have that LEK is the only clearing firm and compliance department that allows layering and quote stuffing. [W]e are writing you and SEC, asking if it's true that LEK's policy is to allow this type of practice. A lot of Chinese traders recently have been thrown out of most US clearing firms because of [H]old [B]rothers' 6 million fine for this type of exact practice. . . We hear all of [the] layers and quote stuffers going to [SL] WTS and the other firms with LEK because of your open policy and weak enforcement policy, they said. [O]nce you ok this to us, we'll be happy and honored to trade with your company. [W]e are just not sure if this is true in this biz as other clearing firms are staying away of this type of trading. Please give me GO AHEAD and we start as we know it goes on at your firm as we have been watching it daily live.

LSCI and Lek Were Aware of Red Flags Regarding the Potential for Compliance Issues at Avalon

105. As set forth above, Avalon's website solicited new traders with language implying that it was a safe haven for those wishing to engage in manipulative trading, notwithstanding regulatory risks, *e.g.,* that Avalon would not "shut down anything we don't necessarily like" or kick out traders because "someone somewhere" doesn't like it; and that they had a compliance team that would defend and promote such trading.

106. LSCI and Lek also knew or were extremely reckless in disregarding information that Avalon relied upon the Firm for compliance issues.

107. Thus, LSCI and Lek knew or were extremely reckless in disregarding red flags that Avalon touted itself as a safe haven for manipulators and, at the same time, relied upon LSCI for compliance issues.

LSCI and Lek Claim to Disagree with Regulators that Layering is Illegal

108. LSCI and Lek knowingly or recklessly rejected the statements of regulators that layering was a form of illegal manipulation and appeared willing to permit such activity in accounts at LSCI. Between May 2012 and October 2012, Lek exchanged a series of emails with a potential new customer in which the customer, "DT," informed Lek that they wanted to engage in "layering," *i.e.,* stating explicitly that "*we put hundres [sic] of orders to push the stock price and then cancel them"* (emphasis added). In response, Lek stated he does not agree with regulators that such a strategy constituted illegal manipulation: "regulators have argued that your trading strategy 'layering' is manipulative and illegal. This is of concern to us, *even though I do not agree with their position*" (emphasis added). Lek continued to discuss the possibility of DT opening an account with LSCI and only appeared to reject DT as a customer *because the profits to be generated from DT's business were insufficient*.[17] LSCI's and Lek's disregard of regulators' warnings was, at a minimum, reckless.

LSCI and Lek Required Avalon to Pay the Firm's Legal Fees

109. In September 2012, in response to LSCI and Lek's receipt of FINRA requests for information, LSCI's CFO, DH, contacted Pustelnik on multiple occasions regarding expenses incurred in responding to regulatory inquiries related to Avalon's trading activities. For example, on September 7, 2012, DH sent an email with the subject line: "we need to talk about avalon's rate...please call me Monday." In the body of the email, DH states: "We may have a regulatory case against us that will cost us hundreds of thousands of dollars to defend."

110. On September 20, 2012, DH sent an email to Pustelnik, with the subject line entitled "Avalon or you" and containing the following inquiry: "Can they or you give us $50,000 that we can put in a separate account as a hold back against real legal fees." DH confirmed that he sent the email because Lek had told him that he had been devoting more time to responding to regulatory inquiries and that it was a good idea to create a so-called "good faith" deposit account for Avalon.

111. DH created the "good-faith" account and funded it in 2012 and 2013 with transfers from Avalon's trading account. Subsequent transfers of funds from Avalon's account were sometimes made without NF's permission. Through such transfers, LSCI obtained approximately $300,000 to $400,000 from Avalon for legal expenses in 2013 alone.

[17] Emails show that DT subsequently opened an account with Avalon.

Pustelnik's Scienter Regarding Layering in the Avalon Account is Imputable to LSCI

112. Pustelnik was the registered representative at LSCI who brought the Avalon account to LSCI, partially funded it, effectively controlled it, and had Power of Attorney over it.

113. LSCI installed servers for Avalon in its office in New York City and in Pustelnik's home, with no access provided to LSCI officers.

114. Pustelnik was aware, no later than February 2012, that regulators considered layering to be a form of manipulation. In September 2012, he was aware that FINRA was investigating layering activity in the Avalon account.

115. Pustelnik was subsequently involved in handling regulatory inquiries on behalf of LSCI regarding the layering activity detected in the Avalon account.

116. After certain controls were implemented by LSCI on February 1, 2013, ostensibly to prevent layering, Pustelnik was involved in loosening those controls over Avalon.

117. In so doing, Pustelnik knew, or was reckless in not knowing, that Avalon was engaged in layering activity. As LSCI's registered representative handling the Avalon account, Pustelnik was acting within the scope of his duties and thus his scienter is imputed to LSCI.

LSCI and Lek Admit Knowledge of the Subject Trading

118. In their Wells' Response of September 5, 2014, regarding allegations that LSCI and Lek did not reasonably supervise the trading in the Avalon account and lacked certain controls to address manipulative trading, Counsel for LSCI and Lek admitted on pp. 2 and 3 that *both were aware of the subject trading* in the Avalon account:\

> Suggesting that LSC and Mr. Lek were unaware of the trading at issue is contradicted by the facts. Indeed, information provided to the Department [of Market Regulation] through documents, OTRs and a presentation show that *LSC [LSCI] and Mr. Lek were very aware of the trading,* frequently followed up with the customers for explanations, [and] conducted their own trade analysis.
>
> ...
>
> There was an abundance of evidence conclusively demonstrating that *LSC and Mr. Lek were very knowledgeable of Avalon's and [another account's] trading activity,* followed up frequently with the customers to get explanations for certain trades, and carefully analyzed their trading for any patterns suggestive of manipulation. [Emphasis added].

119. In sum, LSCI and Lek knew (or were extremely reckless in disregarding) that layering was an illicit trading strategy; that there were red flags associated with the hiring of SVP, AL and Pustelnik and the on-boarding of the Avalon account, and other red flags that should have prompted inquiry into the trading in the Avalon account; that there was notice from regulators that layering was suspected in the Avalon account; that information indicated Avalon touted itself as a safe haven for manipulators; and that LSCI had asked Avalon and Pustelnik to pay for legal fees incurred as a result of Avalon's trading. In addition, LSCI and Lek demonstrated that they could prevent the layering if they wished, and both admitted that they were aware of the subject trading activity in the Avalon account. Lek simply disagrees that it should be illegal.

120. Because LSCI and Lek knowingly, or with extreme recklessness, rendered substantial assistance to Avalon in connection with its manipulative layering activity, LSCI and Lek aided and abetted the manipulation.

c. <u>Manipulative Options Trading (Cross-product Manipulation and Spoofing) in Avalon Account</u>

LSCI's Customer Avalon Engaged in Cross-Product Manipulation

121. During the Options Market Review Period, Avalon, as a customer of LSCI, in hundreds of instances, engaged in activity that constituted cross-product manipulation.

122. In these instances, the Avalon traders engaged in a significant volume of equity trading on one side of the market in a short period of time, usually in less than three minutes.

123. Avalon's equity activity was followed by price movements in the equity and overlying options, which were impacted by Avalon's equity activity. Immediately after triggering this price movement, and within seconds of concluding the equity trades, the Avalon traders effected option transactions that were more favorably priced as a result of the traders' own prior equity trade activity.

124. Avalon's equity activity created a false, misleading, or artificial appearance in the price of the securities and options overlying those equities.

125. As an example of the trading that constituted cross-product manipulation, on August 26, 2013, from 10:14:06 to 10:15:41, Avalon sold 22,616 shares of "DDDD," representing approximately 47% of the total trading volume in that stock during that time period.

126. During that 95-second time window, the share price of DDDD decreased from $243.00 to $241.84. Avalon's selling was a significant factor that contributed to depressing the price of equity shares of DDDD, and had a corresponding impact on the price of the overlying options as a result.

127. Immediately before, and during the time that Avalon was selling equity shares of DDDD, the NBBO of certain DDDD options series was as follows:

Option NBBO Time	Aug 30 2013/240 calls		Aug 30 2013/235 calls		Aug 30 2013/245 calls		Sep 13 2013/230 calls		Sep 6 2013/230 calls	
	NBB	NBO	NBB	NBO	NBB	NBO	NBB	NBO	NBB	NBO
10:13:57	5.50	5.65	9.00	9.25	2.93	3.10	15.30	15.60	14.25	14.55
10:14:06	5.50	5.60	8.95	9.25	2.92	3.05	15.30	15.55	14.20	14.55
10:14:29	5.05	5.35	8.45	8.90	2.69	2.87	14.80	15.20	13.70	14.15
10:15:00	4.85	5.15	8.30	8.60	2.62	2.76	14.65	15.00	13.55	13.90
10:15:41	4.70	4.90	8.00	8.35	2.46	2.59	14.30	14.65	13.25	13.55

128. Using the Sep 6 230 calls as reflected in the last column as an example, as Avalon sold DDDD equity shares, the National Best Offer ("NBO") decreased from $14.55 to $13.55.

129. Next, at 10:15:42, one second after its last sale of DDDD equity shares had been completed, Avalon effected the following DDDD options transactions:[18]

Avalon Transactions	Option NBBO Time	Aug 30 2013/240 calls		Aug 30 2013/235 calls		Aug 30 2013/245 calls		Sep 13 2013/230 calls		Sep 6 2013/230 calls	
		NBB	NBO	NBB	NBO	NBB	NBO	NBB	NBO	NBB	NBO
buy 33 Sep 13/230 calls @ $14.65	10:15:42							14.40	14.65		
buy 71 Oct 19/220 calls @ $26.615											
buy 63 Oct 19/225 calls @ $ 22.95											
buy 96 Sep 6/230 calls @ $13.55	10:15:42									13.15	13.55
buy 27 Sep 21 /230 calls @ $15.7											
buy 18 Oct 19/230 calls @ $19.55											
buy 172 Sep 6/235 calls @$9.75											
buy 8 Sep 13/235 calls @$11.05											
buy 1 Sep 21/235 calls @ $12.3											
buy 20 Aug 30/240 calls @ $4.9	10:15:42	4.75	4.90								
buy 36 Aug 30/235 calls @ $8.3	10:15:42			8.05	8.30						
buy 8 Aug 30/245 calls @ $2.58	10:15:42					2.47	2.58				

[18] For the sake of brevity, the activity does not show the NBBO of all 12 option series in which Avalon effected transactions during the trading sequence.

130. As set forth above, at 10:15:42, Avalon purchased 96 Sep 6 230 DDDD calls at $13.55, $1.00 less than the price of those call options prior to Avalon's equity sales.

131. This $1.00 decrease in the call price was, in large part, attributable to Avalon's concentrated sales activity (22,616 equity shares in the underlying stock) within a short period of time preceding its option activity.

132. In total, after Avalon sold 22,616 equity shares prior to 10:15:42, Avalon purchased 553 calls in 12 different DDDD options series, which represented approximately 40,891 equivalent equity shares.[19] While Avalon was selling the shares of DDDD, the NBO of all 12 DDDD option series showed a movement similar to the Sep 6 230 calls, in that the price declined, enabling Avalon to purchase the options at a more favorable price.

133. Shortly after effecting these transactions, Avalon engaged in additional transactions that had the effect of reversing much of its prior DDDD activity. Between 10:33:46 and 10:36:27, Avalon purchased 7,703 equity shares of DDDD, representing approximately 18% of the total volume traded during that time period, and the price of equity shares of DDDD rose from $244.60 to $244.88.

134. Immediately before, and during the time that Avalon was purchasing equity shares of DDDD, the NBBO of certain DDDD options series was as follows:

Option NBBO Time	Aug 30 2013/240 calls		Aug 30 2013/235 calls		Aug 30 2013/245 calls		Sep 13 2013/230 calls		Sep 6 2013/230 calls	
	NBB	NBO	NBB	NBO	NBB	NBO	NBB	NBO	NBB	NBO
10:33:43	6.35	6.80	10.10	11.00	3.70	3.80	16.40	17.20	15.40	16.25
10:33:46	6.35	6.80	10.10	11.00	3.70	3.80	16.40	17.10	15.40	16.15
10:34:10	6.20	6.50	10.00	10.60	3.50	3.70	16.25	16.85	15.35	15.85
10:34:55	6.30	6.60	10.10	10.60	3.55	3.70	16.40	16.85	15.40	15.85
10:35:35	6.50	6.85	10.30	10.85	3.70	3.85	16.60	17.05	15.65	16.05
10:36:27	6.65	6.90	10.40	10.80	3.75	3.95	16.70	17.10	15.75	16.15

135. Again using the Sep 6 230 calls as an example, as Avalon was purchasing equity shares of DDDD, the National Best Bid ("NBB") increased from $15.40 to $15.75.

[19] Equivalent equity shares are based on the end of day option series as calculated by the Options Clearing Corporation.

136. Next, at 10:36:30, three seconds after its last purchase of DDDD equity shares had been completed, Avalon effected the following DDDD options transactions:[20]

Avalon Transactions	Option NBBO Time	Aug 30 2013/240 calls		Aug 30 2013/235 calls		Aug 30 2013/245 calls		Sep 13 2013/230 calls		Sep 6 2013/230 calls	
		NBB	NBO	NBB	NBO	NBB	NBO	NBB	NBO	NBB	NBO
sell 33 Sep 13/230 calls @ $16.718	10:36:30							16.70	17.10		
sell 63 Oct 19/225 calls @ $24.85											
sell 96 Sep 6/230 calls @ $15.75	10:36:09									15.75	16.15
sell 27 Sep 21/230 calls @ $17.65											
sell 18 Oct 19/230 calls @ $21.30											
sell 172 Sep 6/235 calls @ $11.65											
sell 8 Sep 13/235 calls @ $12.931											
sell 16 Aug 30/240 calls @ $6.65	10:36:30	6.65	6.80								
sell 35 Aug 30/235 calls @ $10.48	10:36:30			10.45	10.80						
sell 2 Aug 30/245 calls @ $3.80	10:36:30					3.80	3.95				

137. In summary, as set forth above, at 10:36:30, Avalon sold 96 Sep 6 230 DDDD calls at $15.75, $0.35 higher than the price of those call options prior to the equity sales.

138. The $0.35 increase in the bid of the Sep 6 230 calls was, in large part, attributable to Avalon's concentrated purchase activity (7,703 equity shares in the underlying stock) within a short period of time preceding its option activity.

139. In total, after Avalon had purchased the 7,703 equity shares at 10:36:30, Avalon sold 470 calls in 10 different DDDD options series, which represented approximately 34,725 equivalent equity shares, offsetting almost all of the options purchases that it had effected at 10:15:42. While Avalon was purchasing equity shares of DDDD, the NBB of each DDDD option series shows a movement similar to the Sep 6 230 calls, in that the price increased, enabling Avalon to sell the options at a more favorable price.

LSCI's Customer Avalon Engaged in Spoofing

140. During the Options Market Review Period, in more than a hundred instances, Avalon also engaged in activity that constituted "spoofing."

141. In several instances, another customer of the Firm also engaged in this activity.

[20] Again, for the sake of brevity, the activity shown does not show the NBBO of all ten option series in which Avalon effected transactions during the trading sequence.

142. For example, Avalon entered one-lot contract option orders, which were cancelled prior to entering a larger options trade on the opposite side of the market.

143. In many instances, Avalon first entered one-lot orders electronically on several options exchanges, which typically had the effect of changing the NBBO, and of attracting other market participants.

144. The one-lot orders entered by Avalon created a false, misleading or artificial appearance in the price of the options, and would usually be cancelled before execution. After cancelling the orders, Avalon would enter larger orders on the opposite side of the market.

145. As an example of Avalon's spoofing activity, on February 26, 2014, at 12:24:04, Avalon entered 18 separate buy orders, each for one contract, across six "FFFF" options series, as follows:

Options Info	Order Price	NYSE MKT Order Size	CBOE Order Size	ISE Order Size	Feb 28 2014/103 calls		Mar 7 2014/102 calls		Mar 7 2014/103 calls		Mar 28 2014/103 calls		Mar 28 2014/104 calls		Mar 28 2014/105 calls	
					NBB	NBO	NBB	NBO	NBB	NBO	NBB	NBO	NBB	NBO	NBB	NBO
NBBO at 12:24:02					1.55	1.90	2.85	3.20	2.10	2.40	3.30	3.60	2.75	3.00	2.20	2.45
Feb 28 2014/103 calls	1.70	1	1	1	1.70	1.90										
Mar 7 2014/102 calls	3.00	1	1	1			3.00	3.20								
Mar 7 2014/103 calls	2.20	1	1	1					2.20	2.40						
Mar 28 2014/103 calls	3.40	1	1	1							3.40	3.60				
Mar 28 2014/104 calls	2.80	1	1	1									2.80	3.00		
Mar 28 2014/105 calls	2.25	1	1	1											2.25	2.45

146. In summary, at 12:24:04, Avalon entered 18 buy-side orders, each for one call contract across six options series and across three exchanges. Each of these orders raised the NBB in an amount ranging from $0.05 to $0.15. For example, after Avalon entered the three one-lot orders to buy the Feb 28 103 calls, the NBB of those options increased from $1.55 to $1.70.

147. Next, at 12:24:06, only two seconds after Avalon entered the orders, all 18 were cancelled.

148. Then, at 12:24:15, nine seconds after cancelling its buy-side orders, Avalon executed orders in which it sold a total of 986 option contracts across ten FFFF call option series, six of which were in the same series as the cancelled one-lot orders, as follows:

Option Contract	# of Contracts Executed	Execution Price
Feb 28 2014/103 calls	122	1.70
Mar 7 2014/102 calls	7	2.95
Mar 7 2014/103 calls	12	2.20
Mar 7 2014/ 104 calls	52	1.60
Mar 14 2014/ 102 calls	97	3.30
Mar 14 2014/ 103 calls	409	2.60
Mar 22 2014/ 105 calls	44	1.90
Mar 28 2014/103 calls	41	3.40
Mar 28 2014/104 calls	117	2.801
Mar 28 2014/105 calls	85	2.289

149. Thus, when Avalon entered the orders to sell the FFFF call contracts, it was able to do so at an advantageous price, benefiting from the increase in the NBB from the entry of the one-lot buy orders. Although Avalon had cancelled its one-lot buy orders, market participants who joined in the new NBBO did not cancel their orders, enabling Avalon to benefit from the increased NBB. In the example of the Feb 28 103 calls, Avalon sold 122 contracts at $1.70, $0.15 higher than the NBB before Avalon entered the one-lot buy-side orders.

LSCI and Lek Provided Substantial Assistance

150. During the Options Market Review Period, both LSCI and Lek provided substantial assistance to Avalon in furtherance of its manipulative activities by providing Avalon access to United States markets and permitting them to use an LSCI MPID to transmit orders to PHLX and other exchanges.

151. As previously noted, LSCI and Lek further provided Avalon with office space, computer servers, trading software, and the services of Pustelnik and SVP to essentially manage all aspects of the Avalon account, including setting up new accounts, negotiating terms for commissions and deposits, acting as the primary contact on the account, maintaining all Avalon paperwork, tracking profits, performing back-office and accounting functions, and handling expenses and billing for Avalon. By providing such

market access, office space, personnel, equipment and services, LSCI and Lek provided substantial assistance to Avalon traders in furtherance of their manipulative trading activity.

152. For more than two years after the start of the Options Market Review Period, LSCI and Lek continued to enable Avalon to trade directly on PHLX and other exchanges despite numerous red flags that had specifically identified Avalon as having engaged in manipulative trading. [21]

Scienter

LSCI and Lek Were Aware that Cross-Product Manipulation and Spoofing Constituted Manipulation

153. As previously noted, on February 8, 2012, Lek sent an email to an LSCI employee, "NL," who, in turn, forwarded the email to Pustelnik, regarding "HF Trading" that included a statement by Lek in which he notes FINRA's concerns with cross-product trading strategies:

> FINRA also is concerned with abusive cross-product HFT strategies and other algorithms where stock transactions are effected to impact options prices and vice versa.

154. Further, industry-wide notices and discussions between Lek and FINRA staff put Lek and LSCI on notice that trading in the Avalon account potentially constituted cross-product manipulation, and posed regulatory and compliance risks. For example, FINRA's 2012 Annual Regulatory and Examination Priorities Letter (Jan. 31, 2012) set forth FINRA's concern with abusive cross-product high frequency trading strategies where stock transactions are effected to impact options prices.

155. FINRA Staff first discussed trading in the Avalon account with Lek on or about August 20, 2012, when they requested that he review the trading to determine whether it was manipulative.

156. Staff had follow-up discussions with Lek about the trading activity on or about November 27, 2012 and January 10, 2013, in which staff articulated their concerns to the Firm that the trading by Avalon was potentially manipulative.

157. On multiple occasions in response to regulatory inquiries to LSCI about the trading, LSCI identified Avalon as the responsible customer.

158. Similar to Avalon's manipulative trading in equities, LSCI and Lek knew that cross-product manipulative option trading was suspected to be occurring in the

[21] The red flags identified in paragraphs 72-120, regarding PHLX equity trading, are also applicable to its options market and are hereby incorporated into this section of the Statement of Facts by reference.

Avalon account. Regulatory discussions with Lek, and inquiries that were sent to the Firm, put both Lek and LSCI on notice of the suspicious trading activity.

159. The manipulative trading in options by Avalon continued unabated despite LSCI's receipt of various regulatory inquiries that identified such activity as potentially violative.

160. LSCI and Lek knew or recklessly disregarded information that constituted red flags that should have alerted them that potentially manipulative trading may have been taking place in the Avalon account.

161. Because LSCI and Lek knowingly, or with extreme recklessness, rendered substantial assistance to Avalon in connection with its manipulative trading activity, LSCI and Lek aided and abetted the manipulation

d. <u>Aiding and Abetting the Operation of an Unregistered Broker-Dealer</u>

Avalon Acted as an Unregistered Broker-Dealer

162. Under Section 15(a)(1) of the Exchange Act, it is unlawful for a broker-dealer to operate without registering with the SEC.

163. Avalon operated through two corporate entities: Avalon FA and "Avalon Fund Aktiv" ("Avalon Fund").

164. Avalon Fund was incorporated by AL in New Jersey in 2006. It was owned and operated by NF, who registered it with Ukrainian authorities as a U.S. corporation.

165. Avalon Fund operated an office in Kiev, Ukraine, for a small number of traders. The office was equipped with a telephone line with a U.S. number.

166. Avalon FA was incorporated in the Republic of Seychelles in February 2010 by NF, its sole officer and owner.

167. Upon the closing of the Regency account at Genesis, Pustelnik migrated Avalon traders to LSCI in October 2010, placing them into the master-sub account of Avalon FA.

168. Neither Avalon Fund nor Avalon FA was registered with FINRA or the SEC during the relevant period. Further, neither Avalon Fund nor Avalon FA was registered with any securities exchange during the relevant period.

169. While Avalon professed to only be a proprietary trading account trading its own assets, and not a broker-dealer, it is clear that Avalon was operating its master-sub account as a broker-dealer.

170. Typically, broker-dealers provide market access to their clients to trade their personal assets in return for commissions and fees. Broker-dealers also generally require clients to deposit their own funds and maintain a minimum balance in order to continue trading. Broker-dealer clients are typically retail or institutional customers. Broker-dealers customarily charge fees to the clients for whom they provide market access. Additionally, a broker-dealer may charge for access to a trading platform.

171. Proprietary trading accounts, on the other hand, generally trade the account-holder's own assets with professional, non-retail traders who are paid by the account holder. Proprietary trading accounts generally do not require a trader to deposit his or her own funds or maintain a minimum balance. Proprietary trading account-holders generally do not charge fees to their traders or charge for access to a trading platform.

172. Avalon's website featured a Russian-language version of the website that used Avalon Fund, the U.S. entity, as its corporate name, while the English-language version of the website used Avalon FA, the ostensibly foreign entity, as its corporate name.

173. The Russian version touted a 1:20 buying power, *i.e.,* a margin requirement of only 5%, compared to 25% under FINRA rules,[22] and commissions as low as .00224 USD per share for Avalon Fund.

174. The English version advertised "Access to Global Markets" for traders, including the U.S. equity and options markets, and stated Avalon FA had offices in the U.S. It listed LSCI's address in New York City as its own and listed a phone number associated with Pustelnik as its "US Direct" number. Voicemail notifications for the number were forwarded to Pustelnik's personal email account.

175. Thus, Avalon solicited clients to open trading accounts with payment of commissions and fees, with profits or losses attributed to clients.

176. Most, if not all, of Avalon's sub-account traders were non-professionals. Numerous account opening forms establish that they self-identified as non-professionals, *i.e.,* as retail clients of Avalon, not as proprietary traders.

177. Further, Avalon's sub-account trading agreements show that clients were required to maintain a minimum balance in order to trade; that clients paid transaction-based commissions from each sub-account's equity, as well as fees; and that clients were to receive 100% of profits generated and sustain all losses.

178. The agreements show that Avalon was providing services to retail clients as a broker-dealer and not proprietarily trading for its own account.

[22] FINRA Rule 4210(c)(1) (effective Dec. 2, 2010; formerly NASD Rule 2520(c)(1)).

179. Avalon profited because its commissions for trading in the Avalon account exceeded those charged to Avalon by LSCI. Avalon further profited by charging various fees, including fees for traders using ROX, LSCI's proprietary trading platform, even though LSCI did not charge such fees to Avalon.

180. Because the Avalon account bore all of the hallmarks of a broker-dealer and none of a proprietary trading account, Avalon operated as an unregistered retail broker-dealer through its account at LSCI in violation of Section 15(a)(1) of the Exchange Act.

LSCI Provided Substantial Assistance

181. LSCI provided substantial assistance to Avalon regarding its operation as an unregistered broker-dealer. For example, LSCI provided access to U.S. markets by permitting Avalon to use an LSCI MPID and an additional MPID provided to LSCI by another broker-dealer (until terminated by that broker-dealer) to transmit orders to the exchanges throughout the relevant period, notwithstanding multiple inquiries from regulators and other red flags.

182. Further, LSCI also provided office space, computer servers, trading software, and the services of Pustelnik and SVP to essentially manage all aspects of the Avalon account, including setting up new accounts, negotiating terms for commissions and deposits, acting as the primary contact on the account, maintaining all Avalon paperwork, tracking profits, performing back-office and accounting functions, and handling expenses and billing. By providing such market access, office space, personnel, equipment and services, LSCI provided substantial assistance to Avalon in furtherance of its operation as an unregistered broker-dealer.

LSCI Acted with Scienter

LSCI Knew or Recklessly Disregarded Information that Avalon Operated as an Unregistered Broker Dealer

183. Because LSCI employees managed virtually all aspects of the Avalon accounts, LSCI knew or was extremely reckless in disregarding information that Avalon was operating as an unregistered broker-dealer. LSCI knew that Avalon charged sub-account clients commissions, received deposits from the sub-account clients, disabled trading accounts until deposits were received, and that the sub-account clients identified themselves as non-professionals. Emails show that LSCI knew that Avalon charged commissions at the sub-account level; that LSCI provided Pustelnik and/or SVP with profit and loss breakdowns on a trader-by-trader basis; and that LSCI required Avalon to identify the commission rates for each sub-account.

184. LSCI also knew that employees Pustelnik and SVP had communications in which they discussed commission rates, deposit minimums, and other indicia of broker-dealer operations directly with NF, sub-account customers or their group leaders,

evidencing *de facto* control of Avalon. As one example of such control, SVP signed her emails to LSCI officers as Avalon's "Head of Finance."

185. Further, via a February 1, 2011 email from NF, LSCI's CFO received a Power of Attorney authorizing Pustelnik and SVP, "as agent and attorney in fact," to act on behalf of Avalon FA "in every respect" and "in all matters," including buying and selling securities. LSCI was therefore aware that employees Pustelnik and SVP had not only *de facto*, but legal control of Avalon.

186. Thus, LSCI knew – or was extremely reckless in disregarding information – that indicated Avalon operated as an unregistered broker-dealer under the control of LSCI employees Pustelnik and SVP.

LSCI Knew or Recklessly Disregarded Information that Avalon's Business Operations Were Centered in the United States

187. In the course of the underlying investigation, LSCI and Lek claimed that Avalon was exempt from the registration requirement of Section 15(a)(1) of the Exchange Act because, they contend, Avalon is a "foreign broker or dealer" exempted by 17 CFR § 240.15a-6.

188. To qualify as a foreign broker or dealer, an entity must be engaged in its business "entirely outside of the United States." 17 CFR § 240.15a-1(g).

189. Avalon, however, conducted most, if not all of its business, within the United States and thus was not a foreign broker or dealer.

190. Avalon Fund was incorporated in the U.S. and NF registered it with Ukrainian authorities as a U.S. corporation.

191. Avalon's website stated it had U.S. offices, listed LSCI's New York address as its headquarters with a U.S. phone number, and used a photo of LSCI's internal conference room as its own. Further, Avalon's sub-account trading agreements claimed that Avalon was a New York corporation operating under U.S. law.

192. NF, Avalon's manager, resided in New Jersey, was a U.S. citizen, and worked out of LSCI's office in New York. LSCI was aware of these facts because a copy of NF's U.S. passport was provided to LSCI's Compliance Officer, "AS," by email dated November 1, 2010, when opening the Avalon account at LSCI.

193. Pustelnik, LSCI's registered representative who brought the Avalon account to the firm and effectively controlled it, resided in New Jersey and worked out of LSCI's office in New York. Pustelnik had Power of Attorney over the Avalon account. He also performed most, if not all, of the back-office functions for Avalon.

194. SVP, LSCI's employee who identified herself as "Head of Finance" for Avalon, worked out of LSCI's office in New York and handled Avalon's accounts and paid its expenses from a U.S. bank account. SVP also had Power of Attorney over the Avalon account.

195. AL, Avalon Fund's registered agent who was also LSCI's registered representative for the Avalon account, resided in the U.S. and worked out of LSCI's office in New York.

196. Several Avalon FA computer servers were physically located in LSCI's office in New York. The servers provided access to Avalon's billing and financial records, account information, order entry and trading records. The servers were accessible only to Pustelnik and LSCI technical staff.

197. Thus, LSCI knew – or was extremely reckless in disregarding information – indicating that most, if not all, of Avalon's business operations were centered in the U.S. and, therefore, that Avalon was not a foreign broker or dealer.

198. Because LSCI knowingly or recklessly rendered substantial assistance to Avalon's operation as an unregistered broker-dealer in violation of Section 15(a)(1) of the Exchange Act, LSCI aided and abetted the violations.

e. <u>LSCI and Lek Failed to Establish and Maintain a Supervisory System, Including Written Supervisory Procedures, Reasonably Designed to Achieve Compliance with Applicable Securities Laws, Regulations, and Rules</u>

LSCI and Lek Failed to Establish Adequate Supervisory Procedures, Including WSPs

199. PHLX members are required to establish, maintain, and enforce WSPs reasonably designed to achieve compliance with applicable securities laws, regulations, and rules. PHLX members are further required to tailor their WSPs to supervise the types of business in which it engages.[23]

200. LSCI and Lek failed to satisfy this obligation by including generic language in the WSPs not applicable to the Firm's actual business.

201. The Firm's WSPs also failed to address key business lines, such as its market access business. Although the Firm provided market access to customers, including Avalon, the Firm's WSPs did not provide for sufficient reviews of trading activity by market access customers, did not provide for supervision of accounts with master-sub account arrangements, and did not include monitoring for various forms of potentially manipulative activity by customers, including but not limited to layering. In addition, the Firm's WSPs did not provide for monitoring the use of, and payments to, putative foreign finders.

[23] PHLX Rule 748(h) as of November 23, 2012. Prior to that date, this was numbered as PHLX Rule 748(g).

202. Further, LSCI and Lek failed to establish adequate supervisory procedures to review for potentially manipulative trading activity and, instead, relied upon manual reviews of accounts in real-time by Lek and other desk supervisors, as well as firm "gateways" that contained "certain compliance checks, fat finger checks, or credit checks," and post-trade tracking reports. But there were no gateway checks, and no exception reports, for layering prior to February 1, 2013.

203. The Firm also relied upon so-called wash sale exception reports, which failed to identify potential or actual wash sales that were separately identified in regulatory inquiries. In fact, both LSCI and Lek acknowledged that, prior to January 2013, the Firm could not determine which trades on the wash sale exception reports were actually wash sales.

204. Further, the Firm had no controls specific to layering until it applied a limited "Q6" layering control on February 1, 2013. The Q6 control only applied to some accounts at LSCI. Further, the control was limited to one parameter: a comparison of the numbers of orders placed on one side of the market relative to the other side of the market. If the difference exceeded a pre-set threshold, the order causing the threshold to be exceeded would not go through.

205. As described above, however, the Firm intentionally undercut the effectiveness of the limited Q6 control with respect to the Avalon account by disclosing the nature of the controls to Avalon and by subsequently loosening the Q6 control after NF objected to the limits.

206. Thus, the Q6 control failed to provide effective review of potentially manipulative trading. Avalon's layering activity continued and, in fact, increased throughout the relevant period.

LSCI and Lek Failed to Maintain Adequate Supervisory Procedures, Including WSPs

207. Lek supervised all firm employees during the relevant period. As LSCI's CEO and CCO, he was responsible for establishing, maintaining, and enforcing LSCI's supervisory system and WSPs. Lek purportedly delegated responsibility for updating the Firm's WSPs to AS.

208. AS, however, failed to review all of the WSPs, and was unfamiliar with various aspects of the supervisory reviews and tools referenced in the WSPs, such as the existence or use of a Daily Transaction Report mentioned in the "Prohibited Transactions" section.

209. The WSPs also failed to identify the designated principal responsible for particular supervisory reviews described in the document and to maintain a comprehensive list that identified the designated supervisor for each supervisory review specified in the WSPs.

210. LSCI's and Lek's failure to maintain an adequate supervisory system is also revealed by inconsistencies between Firm practices and the procedures described in the WSPs. For example, particular reviews were not conducted as frequently as was specified in the WSPs.

211. Other sections of the WSPs contained errors acknowledged by LSCI or were inadequate:

(a) Prior to 2012, the "SEC 15c3-5 (Market Access Rule) and Firm Trading Systems" section contained errors concerning trading limits and "fat finger" controls.

(b) The "Sharing Commissions or Fees with Non-Registered Persons" section failed to address issues/reviews pertaining to non-registered foreign finders who receive transaction-based compensation.

(c) The "Hiring Procedures" section failed to include any requirements to confirm the citizenship of potential foreign finders and failed to identify the principal responsible for conducting pre-hiring investigations of new employees.

(d) The "CRD Electronic Filings" section failed to specify the person responsible for ensuring the accuracy of information filed in the Central Registration Depository.

(e) The "Regulatory Requests and Inquiries" section did not provide for a clear supervisory system to ensure responses were timely, complete and accurate.

(f) The Firm's WSPs required review of electronic mail, but did not specify a designated principal with responsibility to do so. Further, the frequency of such reviews inconsistently referred to both daily and monthly reviews. Moreover, the methodology specified impractical steps, such as requiring employees to provide hard copies of outgoing e-mails to the reviewer, while incoming emails were electronically maintained on the reviewer's terminal for purposes of review.

LSCI and Lek Failed to Enforce Its Supervisory Procedures, Including WSPs

212. LSCI and Lek also failed to enforce the WSPs that it had in place. The Firm's WSPs required annual certifications pertaining to outside business activities and accounts, and adherence to the Firm's electronic communications policy. The Firm did not obtain executed certifications for Pustelnik and AL for 2011 and 2012.

213. Further, LSCI and Lek were aware of the use of personal email accounts used for Firm business by Pustelnik and SVP, contrary to Firm policy, but failed to review such correspondence and take meaningful steps to prevent further violations.

LSCI and Lek Failed to Reasonably Supervise the Activities of Associated Persons

214. PHLX members are required to have a system to supervise the activities of its associated persons that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable PHLX rules.

215. Because Pustelnik, AL, and SVP were employed by LSCI, they were associated persons of LSCI.

216. Pustelnik, AL, and SVP controlled the Avalon account that was used for manipulative purposes for more than four years.

217. Despite knowledge of all the facts set forth herein, LSCI and Lek failed to establish and maintain supervisory procedures and a system to supervise the activities of associated persons Pustelnik, AL and SVP that was reasonably designed to achieve compliance with applicable securities laws and regulations, and with Exchange rules.

f. LSCI Failed to Establish, Document, and Maintain a System of Risk Management Controls and Supervisory Procedures Specific to Equity Trading that Were Reasonably Designed to Manage the Financial, Regulatory, or Other Risks of Its Market Access Business; and Lek Caused Such Failures

218. On November 3, 2010, the SEC announced the adoption of Rule 15c3-5 – the Market Access Rule – "to require that broker-dealers with market access 'appropriately control the risks associated with market access, so as not to jeopardize their own financial condition, that of other market participants, the integrity of trading on the securities markets, and the stability of the financial system.'"[24]

219. Rule 15c3-5 established specific requirements for broker-dealers with market access, including that such firms "establish, document, and maintain a system of risk management controls and supervisory procedures reasonably designed to manage the financial, regulatory, or other risks" of its business.[25]

220. The Market Access Rule further specified the required elements for risk management controls and supervisory procedures and mandated that the controls and procedures be under the "direct and exclusive control" of the broker-dealer.[26]

221. LSCI was required to comply with the Market Access Rule as of July 14, 2011.[27]

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[24] 17 C.F.R. § 240.15c3-5; *Risk Management Controls for Brokers or Dealers With Market Access,* 75 Fed. Reg. 69792, 69792 (Nov. 15, 2010).

[25] 17 C.F.R. § 240.15c3-5(b).

[26] 17 C.F.R. § 240.15c3-5(c)-(d).

[27] *See* Exchange Act Release No. 34-64748 (June 27, 2011).

222. Consistent with the previously described inadequacies regarding to LSCI's WSPs and supervisory procedures, LSCI did not have in place risk management controls and supervisory procedures mandated for broker-dealers by SEC Rule 15c3-5. In particular, LSCI lacked controls and procedures to detect and prevent layering, spoofing, and cross-product manipulation, and other potentially manipulative trading activity by its market access customers, including the Avalon account. Instead, LSCI's risk management controls were primarily focused on credit and financial risks and not on other areas of regulatory compliance risk, *i.e.,* detection and prevention of manipulative trading.

223. As the Firm's CEO and CCO ultimately responsible for supervising all employees and the Firm's supervisory system and controls, Lek was a cause of the Firm's failure to comply with SEC Rule 15c3-5 by negligently (or recklessly) failing to ensure the Firm had controls and procedures reasonably designed to manage the financial, regulatory, or other risks of market access, including reasonable controls and procedures to detect and prevent layering and other manipulative trading activity.

224. Despite FINRA Staff's communications with LSCI in 2012 about repeated regulatory trading alerts of suspicious trading in the Avalon account involving, among other things, layering and wash sales, LSCI's controls and procedures continued to fail to detect or prevent the manipulative activity. Further, Lek negligently (or recklessly) failed to implement such controls and informed regulators that the terms used to describe such manipulative conduct, including "layering" and "spoofing," were "made up." Notwithstanding regulatory inquiries, Lek continued to question whether such conduct was manipulative or illegal.

225. Lek's negligence (or recklessness) regarding 15c3-5 controls is consistent with his previously described comments to a potential customer interested in layering, the Firm's reputation as a safe haven for layering, and Lek's disregard of numerous red flags about Pustelnik, SVP, AL, the Avalon account, and the layering reported therein. It is also consistent with the substantial assistance he provided to Avalon, as described above, to aid and abet the layering activity.

226. The Firm eventually adopted its Q6 layering risk control in February 2013 ostensibly to curtail layering activity. As described above, however, the Q6 controls were circumvented by the disclosure to Avalon of the methodology employed and by relaxing the only operative parameter at the request of Avalon.

227. Further, the Firm lacked systematic procedures for obtaining and maintaining information about such customer accounts/sub-accounts, lacked information about the identities of some sub-accounts, and had minimal information about other sub-accounts, which was decentralized and frequently maintained away from the firm's systems on the personal electronic accounts of SVP.

228. Moreover, the Firm failed to adequately document its controls and procedures for assuring that surveillance personnel receive immediate post-trade execution reports. Similarly, the Firm failed to adequately document its system and procedures for regularly reviewing the

effectiveness of its risk management controls and supervisory procedures, for Rule 15c3-5 purposes, and to the extent they existed at all, such systems and procedures were inadequate, as evidenced by the Firm's failures to identify and address the aforementioned deficiencies in its controls and procedures and the ongoing suspicious and manipulative activity that is the subject of this action.

g. LSCI Failed to Establish, Document, and Maintain a System of Risk Management Controls and Supervisory Procedures Specific to Options Trading that that were Reasonably Designed to Manage the Financial, Regulatory, or Other Risks of Its Market Access Business

229. During the Options Market Review Period, LSCI had no systems or WSPs reasonably designed to detect or prevent cross-product manipulation.

230. The Firm's WSPs section 12.13.3.4 on "Market Manipulation," dated both February 2012 and September 2013, and in effect during the Review Period, merely identified the prohibition of a purchase or sale "designed to raise or lower the price of a security or to give the appearance of trading for purposes of inducing others to buy and sell." The only examples of such prohibited manipulative activities explicitly referenced were marking the close or open, prearranged trading, painting the tape, and wash sales.[28] The Firm's WSPs section 9.8.4 further states: "[p]atterns of orders that are potentially manipulative (i.e., orders at the close) are to be reviewed by the supervisor for corrective action."

231. Further, despite the previously referenced regulatory inquiries, the Firm's WSPs continued to lack provisions regarding surveillance for potential cross-product manipulation, and the Firm continued to lack an electronic surveillance program to detect potential cross-product manipulation. Thus, neither LSCI nor Lek took reasonable action to prevent and detect instances of cross-product manipulation.

232. Additionally, there were no gateway checks, and no exception reports, for spoofing prior to February 1, 2013, when LSCI's Q6 control was initiated to detect spoofing and layering. However, even this system was limited, for it only applied to some accounts at LSCI.

233. The Firm's system to detect spoofing was limited to a comparison of the number of orders placed on one side of the market relative to the other side of the market. If the difference between the numbers (the "delta") exceeded a pre-set threshold, the order causing the threshold to be exceeded would not go through.

234. However, the system maintained by LSCI to surveil for activity that potentially constituted spoofing was not designed to detect instances of spoofing where the initial order was

[28] In subsequent versions of the WSPs, dated December 22, 2014 and later, this section had been renumbered, and added the examples of matched trades, and "[c]irculating, or causing to be published any communication that purports to report any transaction as a purchase or sale of any security unless the trader believes that the transaction was a bona fide purchase or sale of the security."

cancelled prior to entering an order on the opposite side of the market. Thus, the system failed to provide effective supervision.

235. LSCI failed to establish, document and maintain a system of risk management controls, and to have in place appropriate regulatory risk management controls and supervisory procedures, to detect or prevent cross-product manipulation and spoofing.

236. As the Firm's CEO and CCO ultimately responsible for supervising all employees and the Firm's supervisory system and controls, Lek was a cause of the Firm's failure to comply with Rule 15c3-5 by negligently or recklessly failing to ensure the Firm had controls and procedures reasonably designed to manage the financial, regulatory, or other risks of market access, including reasonable controls and procedures to detect and prevent cross-product manipulation and spoofing.

237. Lek's negligence (or recklessness) regarding 15c3-5 controls is consistent with his previously described comments to a potential customer interested in layering, the Firm's reputation as a safe haven for layering, and his disregard of numerous red flags about Pustelnik, SVP, AL, the Avalon account, and the layering reported therein. It is also consistent with the substantial assistance he provided to Avalon, as described above, to aid and abet the layering activity.

h. <u>LSCI Failed to Know Its Customer</u>

238. PHLX members are required to use reasonable diligence, in regard to the opening and maintenance of every account, to know (and retain) the essential facts concerning every customer and concerning the authority of each person acting on behalf of such customer.

239. LSCI failed to exercise reasonable diligence with respect to the opening and maintenance of the Avalon account, given the additional regulatory risks arising from its history, country of origin, and trading activity that was the subject of regulatory inquiries. Moreover, LSCI failed to retain evidence of reviews of Avalon and other such accounts.

240. LSCI also failed to exercise reasonable diligence to investigate underlying organizational documents and other information about the entities behind the Avalon structure and related website information about Avalon. Such information revealed that one of the entities constituting Avalon (Avalon FA) was incorporated in the Republic of Seychelles but was precluded by its Articles of Association from conducting any business there, while its Articles listed LSCI's New York address as its own and its sole officer worked out of that office.

241. Other information revealed that Avalon FA's alter ego, Avalon Fund, appeared to operate an office in Kiev, Ukraine, but was incorporated in New Jersey.

242. Further, the sub-account trading agreements, referencing the names of both entities, stated Avalon was a New York limited liability company. In addition, the website for the putative foreign entity was in English, with a link to the website for the U.S. entity in Russian.

243. Despite this information and these red flags, LSCI failed to exercise reasonable diligence to investigate the individuals behind the Avalon structure and its traders, the reasons for its master-sub account structure, and the terms of the sub-account agreements, which would have revealed that Avalon was acting as an unregistered broker-dealer and that it was not entitled to the foreign broker exception.

244. Further, LSCI had no systematic procedures for obtaining and maintaining information about the Avalon master account or sub-accounts, and lacked information about the identities and backgrounds of certain sub-account traders and had minimal information about others.

245. Thus, LSCI failed to use reasonable diligence in bringing on Avalon and the individuals behind that entity, failed to diligently investigate the reasons for the master-sub-account structure and the terms of the sub-account agreements, and failed to diligently investigate the many red flags that arose concerning both the trading activity in the Avalon account as well as its use as an unregistered broker-dealer

i. <u>LSCI Failed to Maintain and Supervise Electronic Communications</u>

246. PHLX Rule 760 requires member firms to make, keep current, and preserve books and records as prescribed by the Exchange Act. Section 17(a) of the Exchange Act and Rule 17a-4(b)(4) thereunder specifically requires preservation of "all communications received and ... sent."

247. Section 2.16 of the Firm's WSPs provides that communications with customers are "permitted only through company-sponsored or alternative approved facilities" but fails to address how the Firm would supervise for the use of personal email accounts for business purposes or communications with customers. Further, section 2.16.10 requires annual certifications of its employee's adherence to these provisions, but the Firm did not provide signed forms from Pustelnik or AL for 2011 or 2012, and section 5.14.1.5 required the Firm to conduct a review of LSCI electronic mail on a monthly basis, but did not specify the supervisor who would do so.

248. LSCI was aware that business-related emails were sent or received by Pustelnik and SVP through their personal accounts because LSCI officers were on such emails.

249. During the investigation of this matter, Pustelnik turned over approximately 23,595 emails sent to or from his personal email account that he used for business purposes, of which approximately 18,273 emails were not captured or reviewed by LSCI in the ordinary course of business.

250. Similarly, SVP turned over approximately 11,188 emails sent to or from her personal email account(s) that she used for business purposes across the relevant period, of which approximately 5,900 emails were not captured or reviewed by LSCI in the ordinary course of business.

251. For these and the reasons set forth above, the Firm's supervisory system and its WSPs regarding the supervision of electronic communications were inadequate, the Firm failed to adequately capture and retain the electronic communications of its employees and independent contractors, and failed to supervise and review those communications in accordance with applicable regulatory rules and Firm procedures.

j. LSCI Failed to Maintain and Supervise CRD Records

252. PHLX Rule 604(b)[29] requires members and associated persons to file Form U-4s electronically with CRD, and requires the Form U-4 to be updated as required.

253. LSCI's employee profiles on the Forms U-4 in CRD contained incomplete or out-of-date information. LSCI did not request associated persons SVP, AL, or Pustelnik fill out Annual Certifications for 2011 and failed to produce to FINRA any of the forms for 2012 for AL and Pustelnik. The certifications include statements regarding outside business activities. Thus, LSCI did not have current information to update CRD with respect to their outside business activities. For example, Pustelnik failed to disclose his outside business activity in "uafunds.com," an entity controlled by him that provided a link on Avalon's website to Avalon's daily trading blotter.

254. Further, there were errors in the Form U-4s. Pustelnik's address on his form was incorrect and AL's form did not include any alternative spellings of his name, of which there were many. Also, the forms for Pustelnik and AL did not indicate they were independent contractors, while Lek maintained that they were. AL also disclosed to LSCI his employment with "Avalon Fund Aktiv LLC," a business incorporated in New Jersey, but it was reported in CRD as "Avalon Fund" in *Kiev, Russia* [sic].

255. In addition, LSCI's WSPs contained no provisions identifying the person responsible for ensuring compliance with applicable rules and regulations regarding CRD registration. Specifically, Section 4.1.1.3 of the WSPs fails to specify the person responsible to conduct pre-hiring investigations of new employees and Section 4.2.2 fails to specify the person responsible for ensuring the accuracy of information filed in CRD.

256. Thus, LSCI failed to adequately maintain its employees' CRD records, and failed to establish, maintain and enforce a supervisory system reasonably designed to ensure the accuracy of information submitted to CRD.

[29] Effective June 17, 2012, PHLX Rule 604 was superseded by PHLX Rule 616. After the relevant period, effective October 1, 2018, PHLX Rule 616 regarding Electronic Filing Requirements for Uniform Forms was replaced by PHLX General 4 Regulation, Section 1. Nasdaq General Rule 4, Section 1.1250 is incorporated by reference into PHLX General Rule 4, Section 1.

k. LSCI Failed to Enforce Supervisory Procedures Concerning Outside Business Activities

257. On November 26, 2013, FINRA Staff requested copies of the Annual Certification forms for LSCI employees Pustelnik, AL, and SVP for the years 2010-2013. LSCI failed to provide the requested certifications for 2011 because it had failed to send the forms to Pustelnik, AL, or SVP in 2011, although it sent the forms to numerous other employees. For 2012, LSCI provided a single form executed by SVP and, for 2013, forms executed by Pustelnik, AL and SVP (notably, SVP's 2013 form was executed *after* the FINRA request). During this period, Pustelnik was engaged in various outside business activities, including Algo Design LP and Algo Design LLC, and had several outside accounts. LSCI was also unable to produce any "Outside Business Activity Request" forms submitted by Pustelnik between 2010 and 2013, or any evidence of reviews of his outside accounts for the same period.

258. Thus, LSCI failed to enforce its supervisory procedures, including its WSPs, regarding outside business activities.

l. LSCI Failed to Comply Fully and Timely to Staff Requests for Information

259. LSCI was required to fully and timely comply with the Staff's requests, pursuant to PHLX Rule 960.2(b), for information in connection with its investigations in this matter, including, among other things, requests to the Firm to provide electronic communications and other documents and information in writing.

260. During the relevant period, FINRA Staff issued requests pursuant to FINRA Rule 8210 and analogous exchange rules for copies of "all electronic communications" for certain time periods for certain LSCI employees. In its responses, LSCI unilaterally withheld from production electronic communications and other documents through use of a Firm-controlled "electronic privilege screen" that automatically withheld emails or attachments that contained a term on the Firm's undisclosed search term list.

261. The Staff set forth its opposition to LSCI's decision to unilaterally limit its production and reiterated its requests. LSCI nonetheless continued to withhold responsive documents purportedly containing terms on its list. In fact, LSCI stated at one point that it had withheld 27,450 documents by use of its privilege screen. Moreover, despite repeated Staff requests to do so, the Firm has failed to produce a privilege log to the Staff identifying the documents unilaterally withheld.

262. In sum, despite repeated requests, the Firm has unilaterally withheld documents from its productions to FINRA and has neither identified them nor provided a privilege log. In so doing, the Firm has failed to fully and timely comply with the Staff's requests, thereby impeding the investigation of this matter.

FIRST CAUSE OF ACTION
Aiding and Abetting Manipulation in Equities and Options Trading
Prohibited Under Section 10(b) of the Exchange Act and Rule 10b-5
Thereunder, Section 9(a)(2) of the Exchange Act, and Section 17(a) of the Securities Act
(Violation of PHLX Rule 707)
(LSCI and Lek)

263. As set forth above, Avalon, acting through its traders, knowingly or recklessly engaged in manipulative trading in the Avalon account at LSCI during the relevant period.

264. In so doing, Avalon, through the use of the Avalon master account and its sub-accounts at LSCI, in connection with the purchase or sale of securities, directly or indirectly, by the use of a facility of a national securities exchange, knowingly or recklessly employed a device, scheme or artifice to defraud, or engaged in an act, practice, or course of business which operates or would operate as a fraud or deceit upon any person, thereby violating Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

265. In addition, Avalon, directly or indirectly, by the use of the mails or any means or instrumentality of interstate commerce, or of a facility of a national securities exchange, effected, alone or with one or more persons, a series of transactions in securities creating actual or apparent active trading in such securities, or raising or depressing the price of such securities, for the purpose of inducing the purchase or sale of such securities by others, in violation of Section 9(a)(2) of the Exchange Act.

266. Avalon also, through the use of the Avalon master account and its sub-accounts at LSCI, in connection with the offer or sale of securities, directly or indirectly, by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, engaged in a transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser, thereby violating Section 17(a)(3) of the Securities Act of 1933 ("Securities Act").

267. As set forth above, Respondents LSCI and Lek knowingly or recklessly rendered substantial assistance to Avalon in connection with the prohibited manipulative trading described above. In so doing, Respondents LSCI and Lek aided and abetted violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, Section 9(a)(2) of the Exchange Act, and Section 17(a)(3) of the Securities Act, and thereby violated PHLX Rule 707.

SECOND CAUSE OF ACTION
Aiding and Abetting the Operation of an Unregistered Broker-Dealer
Prohibited Under Section 15(a)(1) of the Exchange Act
(Violation of PHLX Rule 707)
(LSCI)

268. As set forth above, Avalon engaged in the activities of a broker-dealer operating in the United States during the relevant period but failed to register with the SEC or FINRA as a broker-dealer (or with any exchange).

269. In so doing, Avalon made use of the mails or a means or instrumentality of interstate commerce to effect transactions in securities without being duly registered, in violation of Section 15(a)(1) of the Exchange Act.

270. Respondent LSCI knowingly or recklessly rendered substantial assistance to Avalon in connection with its operation as an unregistered broker-dealer. In so doing, LSCI aided and abetted the violations, and thereby violated PHLX Rule 707.

THIRD CAUSE OF ACTION
Failure to Establish, Maintain, and Enforce Written Supervisory Procedures
(Violations of PHLX Rules 707, 748, and 1025(a))
(LSCI and Lek)

271. PHLX Rule 748(h)[30] provides, in pertinent part, "Each member or member organization shall establish, maintain, and enforce written supervisory procedures, and a system for applying such procedures, to supervise the types of business(es) in which the member or member organization engages in and to supervise the activities of all registered representatives, employees, and associated persons. The written supervisory procedures and the system for applying such procedures shall reasonably be expected to prevent and detect, insofar as practicable, violations of the applicable securities laws and regulations, including the By-Laws and Rules of the Exchange."

272. PHLX Rule 1025 similarly imposes supervision requirements for options trading, and PHLX Rule 1025(a) provides, in pertinent part, "The general partners or directors of each member organization that conducts a non-member customer business shall provide for appropriate supervisory control and shall designate a general partner or executive officer, who shall be identified to the Exchange, to assume overall authority and responsibility for internal supervision and control of the organization and compliance with securities laws and regulations. This person … shall … (iii) Develop and implement written policies and procedures reasonably designed to independently supervise the activities of accounts serviced by branch office managers, sales managers, regional/district sales managers or any person performing a similar supervisory function."

273. As LSCI's CEO and CCO, Lek was ultimately responsible for the Firm's compliance with supervision requirements.

274. As set forth above, during the relevant period LSCI and Lek failed to establish required WSPs in numerous ways, including the failure to tailor the procedures to LSCI's business and to include sufficient procedures for the Firm's market access business.

275. Further, as set forth above, during the relevant period LSCI and Lek failed to maintain required WSPs in numerous ways, including assigning a responsible person who was insufficiently informed to perform his duties and by maintaining WSPs that were inadequate, contained errors, or were at variance with steps actually performed.

[30] As noted previously, Rule 748(g) was renumbered as Rule 748(h) effective November 23, 2012.

276. In addition, as set forth above, during the relevant period LSCI and Lek failed to enforce the Firm's WSPs, including its procedures pertaining to outside business activities and accounts and adherence to the Firm's electronic communications policy.

277. In so doing, LSCI and Lek violated PHLX Rules 707, 748, and 1025(a).

FOURTH CAUSE OF ACTION
Failure to Establish and Maintain a Reasonable Supervisory System
(Violations of PHLX Rules 707, 748, and 1025(a))
(LSCI and Lek)

278. PHLX Rule 748(h) provides, in pertinent part, "Each member or member organization shall establish, maintain, and enforce written supervisory procedures, and a system for applying such procedures, to supervise the types of business(es) in which the member or member organization engages in and to supervise the activities of all registered representatives, employees, and associated persons. The written supervisory procedures and the system for applying such procedures shall reasonably be expected to prevent and detect, insofar as practicable, violations of the applicable securities laws and regulations, including the By-Laws and Rules of the Exchange."

279. PHLX Rule 1025 similarly imposes supervision requirements for options trading, and PHLX Rule 1025(a) provides, in pertinent part, "The general partners or directors of each member organization that conducts a non-member customer business shall provide for appropriate supervisory control and shall designate a general partner or executive officer, who shall be identified to the Exchange, to assume overall authority and responsibility for internal supervision and control of the organization and compliance with securities laws and regulations."

280. As LSCI's CEO and CCO, Lek was ultimately responsible for the Firm's compliance with supervision requirements.

281. As set forth above, during the relevant period LSCI and Lek failed to establish and maintain the required system to supervise the activities of its registered representatives, registered principals, and/or associated persons, including but not limited to Pustelnik, AL, and SVP, notwithstanding numerous red flags suggesting closer supervision was warranted.

282. By so doing, LSCI and Lek violated PHLX Rules 707, 748, and 1025(a).

FIFTH CAUSE OF ACTION
Market Access Rule Violations
(Willful Violations of Section 15(c)(3) of Exchange Act and Rule 15c3-5 thereunder, and Violations of PHLX Rules 707, 748, and 1025(a) (LSCI), and Violation of PHLX Rule 707 (Lek)

283. Lek was ultimately responsible for the Firm's risk management controls and supervisory system as the Firm's CEO and CCO.

284. LSCI and Lek failed to appropriately control the risks associated with providing its customers with market access during the relevant period so as not to jeopardize the Firm's and other market participants' financial condition and the integrity of the trading on the securities markets, as required by Rule 15c3-5 under Section 15(c)(3) of the Exchange Act.

285. LSCI and Lek failed to establish, document, and maintain a system of risk management controls and supervisory procedures during the relevant period reasonably designed to manage the financial, regulatory, and other risks of providing market access, as the term is defined in Rule 15c3-5, and as required by Rule 15c3-5(b).

286. LSCI and Lek failed to ensure, as required by Rule 15c3-5(c), that LSCI had in place appropriate regulatory risk management controls and supervisory procedures during the relevant period so as to: (i) prevent the entry of orders unless there was compliance with all regulatory requirements; (ii) prevent the entry of orders if the customer or trader is restricted from trading; (iii) restrict access to trading systems and technology to persons pre-approved and authorized by LSCI; and (iv) assure appropriate surveillance personnel receive immediate post-trade execution reports that result from market access.

287. LSCI and Lek also failed to ensure, during the relevant period, that LSCI's regulatory risk management controls and supervisory procedures were under LSCI's direct and exclusive control, as required by Rule 15c3-5(d). LSCI was not relieved of any of its obligations to establish, document, and maintain a system of risk management controls and supervisory procedures reasonably designed to manage the financial, regulatory, and other risks of market access.

288. LSCI and Lek failed to establish, document and maintain a system for regularly reviewing the effectiveness of the risk management controls and supervisory procedures during the relevant period as required by Rule 15c3-5(e).

289. As detailed above, by failing to establish, document and maintain a system of risk management controls and supervisory procedures reasonably designed to systematically manage the regulatory and other risks of providing market access, LSCI willfully violated Section 15(c)(3) of the Exchange Act and Rule 15c3-5 thereunder (for misconduct beginning July 14, 2011) and thereby violated PHLX Rules 707, 748, and 1025(a).

290. Lek's statements to potential investors and regulators regarding layering, as well as his disregard of numerous red flags and inquiries about Avalon and its trading as he aided and abetted the misconduct, are consistent with, at the least, negligence or recklessness on his part with respect to LSCI's deficient market access controls.

291. By failing to ensure the Firm had controls and procedures reasonably designed to manage the financial, regulatory, or other risks of market access, including reasonable controls and procedures to detect and prevent layering and other manipulative trading activity, Lek was a cause of the Firm's willful violations of Exchange Act Section 15(c)(3) and Rule 15c3-5 thereunder, in violation of PHLX Rule 707.

SIXTH CAUSE OF ACTION
Failure to Know Your Customer
(Violations of PHLX Rules 707, 746, 747, and 748)
(LSCI)

292. PHLX Rule 746 requires PHLX members, such as LSCI, to use due diligence to learn the essential facts relative to every customer and to every account accepted by the organization.

293. PHLX Rule 747 requires that PHLX members, such as LSCI, know (and retain) the essential facts concerning every customer.

294. Beginning December 26, 2012 through the end of the relevant period, LSCI failed to know its customer, Avalon, by failing to use reasonable diligence to understand the origins of Avalon and the individuals behind it, as well as those who were trading in or through its master account and sub-accounts, and the reasons for its structure and the terms of its operation, both in the course of onboarding Avalon and in the maintenance of its account.

295. By so doing, LSCI violated PHLX Rules 707, 746, 747, and 748.

SEVENTH CAUSE OF ACTION
Failure to Make and Preserve Email Books and Records
(Willful Violations of Section 17(a) of the Exchange Act and Rule 17a-4 thereunder and Violations of PHLX Rules 707, 748 and 760)
(LSCI)

296. PHLX Rule 760 requires member firms to make, keep current, and preserve books and records as prescribed by the Exchange Act. Section 17(a) of the Exchange Act and Rule 17a-4(b)(4) thereunder specifically requires preservation of "all communications received and ... sent."

297. Section 17(a) of the Exchange Act and Rule 17a-4(b)(4) thereunder require that copies of communications received and sent (and any approvals thereof) by the member, broker or dealer (including inter-office memoranda and communications) relating to its business, be preserved for a period of not less than three years.

298. During the relevant period, LSCI employees and independent contractors were using non-firm (*i.e*. personal) email accounts to conduct LSCI business. The Firm was on notice of such use as early as October 2010 and yet such use continued through at least December 2013. The Firm did not preserve records of these communications.

299. In so doing, LSCI failed to adequately make and preserve email business records of its employees and independent contractors, and thereby willfully violated Section 17(a) of the Exchange Act and Rule 17a-4 thereunder, and also violated PHLX Rules 707, 748, and 760.

EIGHTH CAUSE OF ACTION
Failure to Supervise Electronic Communications
(Violations of PHLX Rules 707 and 748)
(LSCI)

300. The Firm's WSPs during the relevant period contained no provisions applicable to reviewing personal email accounts despite the fact its employees used personal email accounts to conduct Firm business activities.

301. Further, review of the electronic communications provided by LSCI revealed that employees were using personal email accounts to conduct Firm business; in fact, AS, identified by Lek as the person responsible for Firm WSPs and supervision, received business-related emails from employee personal email accounts yet failed to take steps to stop the practice.

302. Thus, LSCI failed to adequately supervise its employee's electronic communications as certain business-related emails were outside its purview, in violation of PHLX Rules 707 and 748.

NINTH CAUSE OF ACTION
Improperly Paying Transaction-Based Compensation to an Unregistered Person
(Violations of PHLX Rules 614(b) and 707)[31]
(LSCI)

303. PHLX Rule 613[32] requires all persons engaged in the securities business of a member who function as representatives to be registered. PHLX Rule 614(b) provides a limited exception for nonregistered foreign persons (*i.e.,* "foreign finders") under certain conditions.

304. During the relevant period, by paying transaction-related compensation to an unregistered person, namely, Pustelnik, when he was not eligible for foreign finder status because he was a United States citizen and should have been duly registered with his Nasdaq PHLX-employer firm, LSCI violated PHLX Rules 614(b) and 707.

[31] After the relevant period, effective October 1, 2018, PHLX Rule 614 regarding Persons Exempt from Registration was replaced by PHLX General 4 Regulation, Section 1. Nasdaq General Rule 4, Section 1.1230 is incorporated by reference into PHLX General Rule 4, Section 1.

[32] After the relevant period, effective October 1, 2018, PHLX Rule 613 regarding Representative Registration was replaced by PHLX General 4 Regulation, Section 1. Nasdaq General Rule 4, Section 1.1210 is incorporated by reference into PHLX General Rule 4, Section 1.

TENTH CAUSE OF ACTION
Failure to Comply Fully and Timely With Information Requests
(Violations of PHLX Rules 707 and 960.2(b))[33]

305. FINRA Rule 8210 requires a member, person associated with a member, or person subject to FINRA's jurisdiction to timely comply fully with the Staff's requests for information in connection with an investigation, complaint, examination or proceeding, including requests to provide information orally, in writing, or electronically, and to provide testimony. In addition, Rule 8210 permits the Staff to inspect and copy the books, records, and accounts of such member or person toward that end. PHLX Rule 960.2(b) requires similar compliance to the requests of the Exchange.

306. During the relevant period LSCI failed to fully and timely respond to the Staff's requests for information issued pursuant to FINRA Rule 8210 and various exchanges' analogous provisions. In particular—and to date—LSCI has failed to produce, despite repeated requests, all requested emails in response to FINRA's request and a privilege log for the thousands of documents it has withheld.

307. In so doing, LSCI impeded the ability of FINRA and other regulators to investigate the serious misconduct at issue, thereby violating PHLX Rules 707 and 960.2(b).

B. Respondents also consent to the imposition of the following sanctions:

a) Imposing a permanent bar, in all capacities, against Samuel Fredrik Lek;

b) Imposing on Lek Securities Corporation sanctions of a Censure, a fine of $900,000, of which $69,230.77 shall be paid to PHLX,[34] and the following equitable relief and undertakings:

1) **Business-Line Restrictions Regarding Foreign Intra-Day Trading**

a. ***Definitions.*** For purposes herein, the following definitions shall apply:

i. ***"Affiliates of the Firm."*** The term "Affiliates of the Firm" includes Lek Securities U.K. Limited ("Lek UK"), Lek Holdings Limited ("Lek Holdings"), and any parent, subsidiary, predecessor, successor, entity owned or controlled by, or under common control with, the Firm, Lek UK, or Lek Holdings.

[33] After the relevant period, effective January 2, 2018, PHLX Rule 960.2 was replaced by PHLX Rule 8210.

[34] The remainder of the fine shall be paid to FINRA, NYSE, NYSE Arca, NYSE American, Nasdaq, BX, Cboe, BZX, BYX, EDGA, EDGX, and ISE.

ii. ***"Customer."*** The term "Customer" shall mean any individual or entity holding an account at or trading through the Firm.

iii. ***"Foreign Customer."*** The term "Foreign Customer" shall mean any Customer who is not a citizen, national, or resident of the United States or its territories, or is not incorporated or domiciled in the United States or its territories. Any Foreign Customers of Affiliates of the Firm shall be treated as Foreign Customers of the Firm.

iv. ***"Intra-Day Trading."*** The term "Intra-Day Trading" shall mean executing, through an account at the Firm, more than five buy and more than five sell orders in the same security (equity or option), within a single day.

b. **Business-Line Restrictions.**

i. The Firm is restricted for a period of three years from the date of the acceptance of this AWC, from having Foreign Customers that engage in Intra-Day Trading. This shall be referred to as the "Foreign Intra-Day Trading Restriction."

ii. The Foreign Intra-Day Trading Restriction does not apply where the Firm engages in the following limited non-executing prime brokerage functions: (1) post-execution clearing services; (2) settlement of securities; (3) custody services, including providing technical services necessary to the provision of such custody services; and (4) pre-execution credit checks conducted in connection with (1)-(3) above.

iii. **Exceptions to the Foreign Intra-Day Trading Restriction.**

Trading Exceptions. Subject to the Time-Out Period described in section I.B.b)1)b.(iv) below, the Foreign Intra-Day Trading Restriction shall not apply to the following types of trading by Foreign Customers:

(1) instances where the Monitor (defined below) determines that the Intra-Day Trading was solely to unwind specific positions in a single day due to news events, unique changes in market conditions, or to correct a bona-fide error; provided, however, that if the Firm or the Customer does not or cannot provide the Monitor with requested information to determine if the trading falls under this exception, then this exception shall not apply;

(2) instances where the Monitor determines that the Intra-Day Trading was related to hedging that is not part of a manipulative or illegal strategy; provided, however, that if the Firm or the Customer does not or cannot provide the Monitor with requested information to determine if the trading falls under this exception, then this exception shall not apply;

(3) instances where the Monitor determines that the Intra-Day Trading was related to stop loss orders that are not part of a manipulative or illegal strategy; provided, however, that if the Firm or the Customer does not or cannot provide the Monitor with requested information to determine if the trading falls under this exception, then this exception shall not apply;

Foreign Customer Exceptions. The Foreign Intra-Day Trading Restriction shall not apply to Foreign Customers in the following categories:

(4) institutional Customers with assets under management in excess of $50 million; or

(5) pension funds, broker dealers subject to comprehensive regulation in their local jurisdiction, licensed banks, and entities that meet the definition of foreign financial institutions under 26 U.S.C. §§ 1471(d)(4) and (d)(5) and that are subject to comprehensive regulation in their local jurisdiction by a regulatory body applicable to that type of entity.

(iv) ***Applicability of Exceptions.***

(1) **Existing Foreign Customers.** From the date of entry of the Foreign Intra-Day Trading Restriction until the later of (i) 120 days, or (ii) 3 days after the Monitor's first report ("Time Out Period"), the Exceptions to the Foreign Intra-Day Restriction set forth in section I.B.b)1)b.(iii)(2)-(5) above shall be available only to existing Foreign Customers of the Firm. Attachment A hereto is a list of existing Foreign Customers of the Firm.

(2) **New Foreign Customers.** At the end of the Time Out Period, subject to review and approval by the Monitor, the Firm may begin excepting new Foreign Customers from the

Foreign Intra-Day Trading Restriction pursuant to section I.B.b)1)b.(iii)(2)-(5) above.

2) **Requirement to Terminate Certain Foreign Customers.** Foreign Customers of the Firm may be deemed Significant Compliance Risks and must be terminated as following:

   a. **Significant Compliance Risk Designation.** A Foreign Customer is deemed a Significant Compliance Risk if:

      (i) A Foreign Customer that does not fall within the exceptions in section I.B.b)1)b.(iii)(4)-(5) above engages in Intra-Day Trading twice in a 30-day period; or

      (ii) A Foreign Customer, regardless of whether it falls within any exception set forth in section I.B.b)1)(iii) above, engages in potential manipulative trading or other market manipulation that is flagged by the Monitor, the SEC, FINRA, or another Self-Regulatory Organization ("SRO").

   b. **Significant Compliance Risk Review.** The Firm must cause the Monitor to conduct a review of a Foreign Customer that has been deemed a Significant Compliance Risk within 30 days of the Foreign Customer being so designated, as set forth in section I.B.b)3)h. below.

   c. **Account Suspension.** The Firm must suspend all trading by the Foreign Customer that is deemed a Significant Compliance Risk during the Significant Compliance Risk review if the Monitor so recommends, as set forth in section I.B.b)3)h. below.

   d. **Termination.**

      (i) The Firm must terminate a Foreign Customer that is deemed a Significant Compliance Risk if, after the Significant Compliance Risk review, the Monitor determines that the Foreign Customer should be terminated.

      (ii) If the Firm or the Foreign Customer cannot or does not provide information requested by the Monitor to conduct the Significant Compliance Risk review, the Firm must terminate that Foreign Customer, as set forth in section I.B.3)h. below.

3) **Retention of Monitor.** Within 30 days of the execution of this Offer of Settlement, retain an Independent Compliance Monitor (the "Monitor"), not unacceptable to FINRA, for a period of three years, to conduct a comprehensive and ongoing review of the Firm concerning the areas and

subjects set forth below, and to carry out the tasks set forth herein. The Firm may apply to FINRA for an extension of that deadline before it arrives, and upon a showing of good cause by the Firm, FINRA, in its sole discretion, may grant such extension for a period of time it deems appropriate.

a. **Terms and Payment of Monitor**. The Monitor shall remain in place for a period of three years from the date of retention, provided, however, that if the Firm fails to implement the Monitor's recommendations and obtain the Monitor's certification of such implementation within that period, the Monitor will remain in place until the Firm complies with all recommendations and the Monitor certifies that such recommendations have been implemented. The Firm shall be solely responsible for payment of the Monitor's fees and expenses.

b. **Independence of Monitor.** The Firm shall require the Monitor to enter into an agreement that provides that for the period of engagement and for a period of two years from completion of the engagement, the Monitor shall not enter into any employment, consultant, attorney-client, auditing or other professional relationship with the Firm or any of its present or former affiliates, directors, officers, employees, or agents acting in those capacities. The agreement will also provide that the Monitor will require that any firm with which he/she is affiliated or of which he/she is a member, and any person engaged to assist the Monitor in performance of his/her duties under this Offer shall not, without prior written consent of FINRA, enter into any employment, consultant, attorney-client, auditing or other professional relationship with the Firm, or any of its present or former affiliates, directors, officers, employees, or agents acting in those capacities for the period of the engagement and for a period of two years after the engagement.

c. **Confirmation.** Within three (3) business days after retaining the Monitor pursuant to the above, the Firm must provide to FINRA a copy of the engagement letter detailing the Monitor's responsibilities.

d. **Cooperation.** The Firm will cooperate fully with the Monitor, including providing the Monitor with access to its files, books, records, and personnel (and the files, books, records, and personnel of Affiliates of the Firm), as reasonably requested for the tasks set forth herein, and the Firm will obtain the cooperation of its employees or other persons under its supervision or control.

e. **Account Information to Provide to Monitor.** In order to facilitate the Monitor's reviews and assessments that are to be performed hereunder, and in addition to any information required below, the Firm shall provide the Monitor with the following information and documents, within such time as the Monitor reasonably requires and on an ongoing basis if and as required by the Monitor:

(i) The identity and full legal name of every Customer, including the account holder and every person authorized by the Firm to trade in the account.

(ii) For each individual identified in subparagraph (i) above, a statement of whether the person is a citizen, national, or resident of the United States or its territories, and if so, identification of the location from which the individual does business, and a copy of the driver's license or U.S. passport of such individual.

(iii) If the individual identified in subparagraph (i) above is not a citizen, national, or resident of the United States or its territories, a statement of the nationality, the location from which the individual does business, and a copy of government-issued identification.

(iv) For each entity identified in subparagraph (i) above, identification of the names of the entity's principals, and a statement of whether it is incorporated or domiciled in the United States or its territories, and if so, the state in which it is incorporated, and the state in which it has its principal place of business.

(v) If the entity identified in subparagraph (i) above is not incorporated or domiciled in the United States or its territories, identification of the country in which it is incorporated, and the country in which it has its principal place of business.

(vi) Such other information as the Monitor requests.

f. **Monitor's Review, Assessment and Recommendations of the Firm's Compliance With Foreign Intra-Day Trading Restriction.**

(i) The Firm shall require the Monitor to review and assess on an ongoing basis whether the Firm is complying with the Foreign Intra-Day Trading Restriction. This shall include but not be limited to requiring the Monitor to: (i) review and assess all Intra-Day Trading by Foreign Customers who are not excepted from such restriction under section I.B.b)1)b.(iii)(2)-(5) and (iv) above; (ii) review and assess the sufficiency and reasonableness of the Firm's systems, policies, and procedures related to Intra-Day Trading by Foreign Customers; (iii) review and assess the Firm's compliance with the Foreign Intra-day Trading Restriction; and (iv) conduct reviews and make recommendations pursuant to the Significant Compliance Risk provisions below.

(ii) In order to facilitate the Monitor's review required by this section and the Significant Compliance Risk provisions below, the Firm shall provide the Monitor with the following information for all Intra-Day Trading by Foreign Customers who are not excepted from such restriction under section I.B.b)1)b.(iii)(2)-(5) and (iv) above:

(1) The date and time, security, quantity, price, and other details requested by the Monitor concerning orders placed and trades executed;

(2) For orders and trades identified under subparagraph (1) above, the identity and location of the Customer, sub-account, or trader who entered each order and trade; and

(3) Such other information as the Monitor requests, including but not limited to the information described in section I.B.b)3)e. above.

(iii) The Firm shall make the information required by this section I.B.b)3)f. available to the Monitor beginning no later than 30 days after the date of entry of the Foreign Intra-Day Trading Restriction, and then every 30 days thereafter, or at such other intervals as the Monitor may require.

(iv) The Firm shall require the Monitor to perform and complete the review, assessment and making of recommendations required by this section within 120 days of the date of the Monitor's appointment, and again by the end of each 120-day period thereafter, for so long as the Monitor is engaged.

(v) The Firm shall require the Monitor to submit a report to the Firm and to FINRA on the review, assessment and recommendations required by this section within 120 days of the date of the Monitor's appointment, and again by the end of each 120-day period thereafter, for so long as the Monitor is engaged. The report shall include information concerning review and recommendations regarding Intra-Day Trading by Foreign Customers.

g. **Monitor's Review, Assessment and Recommendations Regarding Firm Supervision and Controls.**

(i) The Firm shall require the Monitor to review and assess the reasonableness of the Firm's supervisory system, including its WSPs, with respect to the areas described in paragraphs 271-282 above, and to recommend actions to be taken by the Firm to ensure the reasonableness of its supervisory system, including its WSPs,

to address the risks associated with trading by Foreign Customers, including trading through sub-accounts associated with Foreign Customers;

(ii) The Firm shall require the Monitor to review and assess the reasonableness of the Firm's supervisory system, including its WSPs, with respect to customer identification procedures, and to recommend actions to be taken by the Firm to ensure the reasonableness of its supervisory system, including its WSPs, to address the risks associated with opening or maintaining accounts for Foreign Customers, including sub-accounts associated with Foreign Customers;

(iii) The Firm shall require the Monitor to review and assess the reasonableness of the Firm's market access controls with respect to the areas described in paragraphs 283-291 above, to include but not limited to, credit limits, open order limits, and other pre-trade controls, as well as post-trade controls and reviews, and to recommend actions to be taken by the Firm to ensure the reasonableness of its market access controls to address the risks associated with providing market access to Foreign Customers, including market access through sub-accounts associated with Foreign Customers.

(iv) The Firm shall require the Monitor to submit a report to the Firm and to FINRA on the review, assessment, and recommendations required by this section within 120 days of the date of the Monitor's appointment, and again by the end of each 120-day period thereafter, for so long as the Monitor is engaged. The report shall include information concerning the Monitor's review and recommendations regarding supervision, customer identification procedures, and market access controls. The Firm may apply to FINRA for an extension of the deadline for submitting a report before it arrives, and upon a showing of good cause by the Firm, FINRA, in its sole discretion, may grant such extension for a period of time it deems appropriate.

h. **Monitor's Review and Recommendations Concerning Significant Compliance Risks and Termination.**

(i) The Firm shall require the Monitor to review, assess, and make recommendations on an ongoing basis concerning the Firm's compliance with the Requirement to Terminate Certain Foreign Customers provisions in section I.B.b)2) above. This shall include but not be limited to requiring the Monitor to: (i) review and assess the sufficiency and reasonableness of the Firm's systems, policies,

and procedures for identifying Foreign Customers as Significant Compliance Risks; (ii) review and assess the Firm's compliance with the Requirement to Terminate Certain Foreign Customer provisions in section I.B.b)2) above; and (iii) conduct reviews and make recommendations where a Foreign Customer has been designated a Significant Compliance Risk.

(ii) Where a Foreign Customer has been designated a Significant Compliance Risk, the Firm shall require the Monitor to undertake reviews and recommendations as follows:

(1) Conduct a review within 30 days of the Foreign Customer being designated a Significant Compliance Risk ("Significant Compliance Risk Review") to determine whether the Foreign Customer has engaged in Intra-Day Trading not subject to the exceptions set forth in section I.B.1)b.(iii) above or has engaged in manipulative trading or other market manipulation.

(2) Recommend whether the Firm should suspend all trading by the Foreign Customer during the period of the Significant Compliance Risk Review.

(3) Determine whether the Firm and the Foreign Customer have provided all information requested to conduct the Significant Compliance Risk Review.

(4) Determine whether the Foreign Customer has engaged in Intra-Day Trading not subject to the exceptions set forth in section I.B.1)b.(iii) above or has engaged in manipulative trading or other market manipulation.

(5) Make a recommendation regarding termination of the Foreign Customer based upon the Monitor's determinations under subparagraphs (3) and (4) above and the Requirement to Terminate Certain Foreign Customer provisions under section I.B.b)2) above.

(iii) The Firm shall require the Monitor to perform this review, assessment, and making of recommendations on an ongoing basis for so long as the Monitor is engaged.

(iv) The Firm shall require the Monitor to submit a report to the Firm and FINRA on the review, assessment and recommendations required by this section within 120 days of the date of the Monitor's appointment, and again by the end of each 120-day period thereafter,

for so long as the Monitor is engaged. The report shall include information concerning the Monitor's review and recommendations regarding any Foreign Customers identified as Significant Compliance Risks.

i. **Monitor's Review and Assessment of Whether Samuel F. Lek Has Any Interest or Role in the Firm.**

(i) The Firm shall require that the Monitor review and assess the Firm's corporate governance structure, ownership, and management, so as to determine whether Samuel F. Lek has any legal or beneficial interest or role in the Firm.

(ii) The Firm shall require the Monitor to perform and complete this review and assessment within 120 days of the date of the Monitor's appointment, and again by the end of each 120-day period thereafter, for so long as the Monitor is engaged.

(iii) The Firm shall require the Monitor to submit a report to the Firm and FINRA on the review, assessment, and recommendations required by this section within 120 days of the date of the Monitor's appointment, and again by the end of each 120-day period thereafter, for so long as the Monitor is engaged.

j. **Implementation of Recommendations.**

(i) Except as set forth in section I.B.3)j.(ii)-(vii) below, the Firm shall have ninety (90) days from the date of receiving any recommendations from the Monitor to adopt and implement such recommendations. The Firm shall notify the Monitor and FINRA in writing when each such recommendation has been implemented.

(ii) Any recommendations that the Monitor makes regarding suspending all trading by the Foreign Customer during a period of Significant Compliance Risk Review must be implemented within one (1) business day of the Monitor's recommendation.

(iii) Any recommendations that the Monitor makes regarding termination of a Foreign Customer must be implemented within two (2) business days of the Monitor's recommendation.

(iv) If the Firm considers any recommendation unduly burdensome, impractical, or costly, or inconsistent with applicable law or regulation, the Firm need not adopt that recommendation at that time, but may submit in writing to the Monitor and FINRA within fifteen (15) days of receiving the recommendation, an alternative

policy, procedure, or system designed to achieve the same objective or purpose. This provision shall not apply, however, to recommendations that the Monitor makes regarding (i) suspending all trading by the Foreign Customer during a period of Significant Compliance Risk Review, or (ii) termination of a Foreign Customer.

(v) If the Firm considers any recommendation relating to (i) suspending all trading by the Foreign Customer during a period of Significant Compliance Risk Review, or (ii) termination of a Foreign Customer, to be unduly burdensome, impractical, or costly, or inconsistent with applicable law or regulation, the Firm shall adopt the recommendation at that time, but may submit in writing to the Monitor and FINRA within fifteen (15) days of receiving the recommendation, an alternative policy, procedure, or system designed to achieve the same objective or purpose.

(vi) In the event that the Firm and the Monitor are unable to agree on an acceptable alternative proposal under sections (iv) and (v) above, the Firm shall promptly notify FINRA. The Firm must abide by the Monitor's ultimate determination with respect to any such disputes. Pending such ultimate determination, the Firm shall not be required to implement any contested recommendation(s) except, as set forth above, recommendations regarding (i) suspending all trading by the Foreign Customer during a period of Significant Compliance Risk Review, or (ii) termination of a Foreign Customer.

(vii) With respect to any recommendation that the Monitor determines cannot reasonably be implemented within ninety (90) days after receiving it, the Monitor may extend the time period for implementation, so long as FINRA does not object.

k. **Providing Information to FINRA and other SROs.** For the period of the Monitor's engagement, the Firm shall provide FINRA and other affected SROs[35] with any information reasonably requested by FINRA or the SROs pertaining to the subject matter of this Offer of Settlement. The Firm shall require that the Monitor provide FINRA and other SROs with any information that FINRA or the other SROs request regarding such matters, including but not limited to the Monitor's review, assessments, recommendations, and any communications and interactions between the Monitor and the Firm.

[35] See SROs listed in Sec. I, para. 4, *supra.*

l. **Requirements Hereunder Do Not Supplant Other Legal Requirements.** The prohibitions and obligations set forth herein do not supplant any obligations that the Firm has under the law or under the rules of any self-regulatory organization or exchange of which the Firm is a member. No determinations by the Monitor, and no provisions herein, shall preclude FINRA or any self-regulatory organization from bringing actions against Respondents.

m. **Certification by the Firm.** Within thirty (30) days after the date of implementation of any recommendation herein, the Chief Executive Officer of the Firm shall certify to the Monitor and FINRA, in writing, compliance with the undertaking(s) set forth above. The certification shall identify the undertaking(s), provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. FINRA may make reasonable requests for further evidence of compliance, and the Firm agrees to provide such evidence.[36]

Additionally, acceptance of this AWC is conditioned upon acceptance of parallel settlement agreements in related matters between Respondents and the following SROs: FINRA, NYSE, NYSE Arca, NYSE American, Nasdaq, BX, Cboe, BZX, BYX, EDGA, EDGX, and ISE.

The Firm agrees to pay the monetary sanction upon notice that this AWC has been accepted and that such payment is due and payable. The Firm has submitted a Payment Information form showing the method by which it will pay the fine imposed.

The Firm specifically and voluntarily waives any right to claim that it is unable to pay, now or at any time hereafter, the monetary sanction imposed in this matter.

The Firm understands that this settlement includes a finding that it willfully violated Section 15(c)(3) of the Exchange Act and Rule 15c3-5 thereunder, and Section 17(a) of the

[36] In determining the above sanctions, PHLX has taken into account the monetary sanctions imposed by the SEC in its parallel action against the Firm and Samuel Lek for, *inter alia*, aiding and abetting fraudulent trading of Avalon FA Ltd, Nathan Fayyer, and Serge Pustelnik, in violation of Sections 9(a)(2) and 10(b) of the Exchange Act of 1934 and Rule 10b-5 promulgated thereunder, and Section 17(a) of the Securities Act of 1933 (*see S.E.C. v. Lek Secs. Corp.*, No. 17 Civ. 1789 (DLC)(S.D.N.Y.)). To avoid regulatory duplication, the monetary sanctions herein are imposed solely for violations of the Third through Tenth Causes of Action herein, not the First or Second, which allege aiding and abetting activity similar to the allegations in the SEC action.

Exchange Act and Rule 17a-4 thereunder. Pursuant to Article I(kk) of PHLX's By-Laws, this makes the Firm subject to a statutory disqualification with respect to membership.

Lek understands that if he is barred or suspended from associating with any PHLX member, he becomes subject to a statutory disqualification as that term is defined in Section 3(a)(39) of the Securities Exchange Act of 1934, as amended. Accordingly, Lek may not be associated with any PHLX member in any capacity, including clerical or ministerial functions, during the period of the bar or suspension. (See PHLX Rule 8310 and IM-8310-1.)

The sanctions imposed herein shall be effective on a date set by Nasdaq staff. Pursuant to IM-8310-3(e), a bar or expulsion shall become effective upon approval or acceptance of this AWC.

II.

WAIVER OF PROCEDURAL RIGHTS

Respondents specifically and voluntarily waive the following rights granted under PHLX's Code of Procedure:

A. To have a Formal Complaint issued specifying the allegations against the Firm and Lek;

B. To be notified of the Formal Complaint and have the opportunity to answer the allegations in writing;

C. To defend against the allegations in a disciplinary hearing before a hearing panel, to have a written record of the hearing made and to have a written decision issued; and

D. To appeal any such decision to the PHLX Review Council and then to the U.S. Securities and Exchange Commission and a U.S. Court of Appeals.

Further, Respondents specifically and voluntarily waive any right to claim bias or prejudgment of the Chief Regulatory Officer, the PHLX Review Council, or any member of the PHLX Review Council, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including acceptance or rejection of this AWC.

Respondents further specifically and voluntarily waive any right to claim that a person violated the ex parte prohibitions of Rule 9143 or the separation of functions prohibitions of Rule 9144,

in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including its acceptance or rejection.

III.

OTHER MATTERS

Respondents understand that:

A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by FINRA's Department of Enforcement and the PHLX Review Council, the Review Subcommittee, or the Office of Disciplinary Affairs ("ODA"), pursuant to PHLX Rule 9216;

B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against the Respondents; and

C. If accepted:

1. This AWC will become part of the Respondents' permanent disciplinary record and may be considered in any future actions brought by PHLX or any other regulator against the Respondent;

2. PHLX may release this AWC or make a public announcement concerning this agreement and the subject matter thereof in accordance with PHLX Rule 8310 and IM-8310-3; and

3. Respondents may not take any action or make or permit to be made any public statement, including in regulatory filings or otherwise, denying, directly or indirectly, any finding in this AWC or create the impression that the AWC is without factual basis. Respondents may not take any position in any proceeding brought by or on behalf of PHLX, or to which PHLX is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects the Respondents' right to take legal or factual positions in litigation or other legal proceedings in which PHLX is not a party.

4. Respondent LSCI may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Respondent understands that it may not deny the charges or make any statement that is inconsistent with the AWC in this Statement. This Statement does not constitute factual or legal findings by PHLX, nor does it reflect the views of PHLX or its staff.

The undersigned, on behalf of the Firm, certifies that a person duly authorized to act on its behalf has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that the Firm has agreed to its provisions voluntarily; and that no offer, threat, inducement or promise of any kind or nature, other than the terms set forth herein and the prospect of avoiding the issuance of a Complaint, has been made to induce the Firm to submit it.

Separately, Lek certifies that he has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that he has agreed to its provisions voluntarily; and that no offer, threat, inducement or promise of any kind or nature, other than the terms set forth herein and the prospect of avoiding the issuance of a Complaint, has been made to induce him to submit it.

Date: Nov. 20, 2019

Respondent
Lek Securities Corporation

By: _____
Charles Lek
Chief Executive Officer

Respondent
Samuel Frederik Lek

By: _____
Samuel Frederik Lek

The undersigned, on behalf of the Firm, certifies that a person duly authorized to act on its behalf has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that the Firm has agreed to its provisions voluntarily; and that no offer, threat, inducement or promise of any kind or nature, other than the terms set forth herein and the prospect of avoiding the issuance of a Complaint, has been made to induce the Firm to submit it.

Separately, Lek certifies that he has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that he has agreed to its provisions voluntarily; and that no offer, threat, inducement or promise of any kind or nature, other than the terms set forth herein and the prospect of avoiding the issuance of a Complaint, has been made to induce him to submit it.

Date: Nov. 20, 2019

Respondent
Lek Securities Corporation

By: _____
Charles Lek
Chief Executive Officer

Respondent
Samuel Frederik Lek

By: _____
Samuel Frederik Lek

Reviewed by:

Kevin Harnisch
Counsel for Respondents
Norton Rose Fulbright US LLP

Accepted by PHLX:

12/17/2019
Date

Signed on behalf of the
Director of ODA, by delegated authority

Steven M. Tanner
Chief Counsel
Department of Enforcement

Signed on behalf of PHLX, by delegated
authority from the Director of ODA

PAYMENT INFORMATION

The fine amount will be reflected on an upcoming invoice and will be direct debited from the account for your firm that Nasdaq currently has on file. ***Please DO NOT submit payment at this time.***

Please inform your finance or applicable department of this forthcoming debit.

If you need to arrange for an alternative method of payment, please contact Nasdaq at (301) 978-8310 by no later than the last business day of the month in which the Notice of Acceptance of the AWC was issued. ***Otherwise, a direct debit will process from the account for your firm that Nasdaq currently has on file.***

Respectfully submitted,

Respondent

Lek Securities Corporation

Nov 20, 2019

Date

By: _____

Name: Charles Lek

Title: Chief Executive Officer