



## Notice of Disciplinary Action against Joseph Constantine Monte in his capacity as the former CEO, and former co-founding owner/control person and associated person of Quad Capital, LLC, a former Member Organization

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**To:** Members, Member Organizations, Participants and Participant Organizations

**From:** John C. Pickford, Enforcement Counsel, NASDAQ OMX PHLX<sup>SM</sup>

**DATE:** November 23, 2015

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### **Enforcement No. 2015-11**

### **FINRA Matter No. 20100221850-01 (incl. 20110284443)<sup>1</sup>**

On November 20, 2015, the Business Conduct Committee (the "Committee") issued a disciplinary decision against Joseph Constantine Monte ("Monte") in his capacity as the former Chief Executive Officer, and as a former co-founding owner, control person and associated person of Quad Capital, LLC ("Quad Capital" or the "Firm"), a former member organization of the NASDAQ OMX PHLX LLC ("PHLX" or the "Exchange"), prior to Monte's voluntary resignation from the Firm, effective March 21, 2011. In connection with a Statement of Charges issued in this action, Monte submitted an Offer of Settlement, Stipulation of Facts and Consent to Sanctions ("Offer"). Solely to settle these proceedings, and without admitting or denying the charges, Monte consented to findings that during the period from December 1, 2009 to March 21, 2011 (the "Relevant Period"), he violated Exchange Rules 748 and 707 by failing to ensure the Firm had adequate supervisory procedures and controls reasonably designed to ensure compliance with Rule 105 of Regulation M of the Securities Exchange Act of 1934 ("Rule 105"). Prior to his departure from the Firm, and pursuant to Exchange Rule 748, Monte was designated as the Firm's principal executive officer with overall authority and responsibility for supervision and control at the Firm, including providing for appropriate written procedures of supervisory and control. In such capacity, he was required to establish a system of follow-up and review to determine whether any supervisory responsibilities he delegated were being properly exercised, including those responsibilities he delegated to the Firm's Chief Compliance Officer.

The decision found, among other things, that during the Relevant Period, Monte failed to conduct sufficient supervisory oversight to ensure the Firm and its Chief Compliance Officer did not misapply the bona fide purchase exception in Rule 105. Further, Monte provided inadequate supervisory oversight to ensure the Firm's trading properly complied with the separate accounts provision in Rule 105, from on or about May 20, 2010 (when the Firm unsuccessfully sought to move to a separate account structure for Rule 105 purposes) until his departure from the Firm. Additionally, Monte engaged in conduct that contributed to the Firm's ineligibility to claim the separate accounts exception by enabling at least certain

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<sup>1</sup> Concurrent Notices of Disciplinary Action in this Matter also separately have been posted concerning: (i) the Firm's former CCO, and (ii) Quad Capital, as well as three other former co-founding owners, control persons and associated persons of the Firm.

traders to routinely share information about their trading strategies and positions and to view other traders' positions. Further, Monte failed to conduct sufficient supervisory oversight, both before and after the Firm sought to move to a separate account structure, to ensure the Firm did not sell short stock during the restricted period and obtain related offering stock, without otherwise qualifying for a Rule 105 exception. During the Relevant Period, the Firm could not provide any documentary evidence of ongoing reviews for compliance with Rule 105, beyond the provision of sporadically maintained offering sheets that generally only evidenced certain traders' specified participation interest levels in particular offerings; and the Firm's written supervisory procedures lacked any express supervisory reviews for compliance with Rule 105.

The Offer submitted by Monte was accepted by the Committee and was the basis of its Decision. The Committee concurred in the sanctions consented to by Monte, and ordered the imposition of the following sanctions: Monte is censured, fined \$250,000 and suspended from serving in a supervisory capacity with any member organization for a period of two months.

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For more information, contact:

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