NATIONAL FUTURES ASSOCIATION
BEFORE THE
BUSINESS CONDUCT COMMITTEE

FARVIEW INVESTMENTS LLC (NFA ID #405099),	)	
And	)	NFA Case No. 11-BCC-027
RICK E. BROOKS (NFA ID #77625),	)	
Respondents.	)	

ANSWER

Farview Investments, LLC ("Farview") and Rick E. Brooks ("Brooks"), by their attorneys, Vanasco Genelly & Miller, for their Answer to the Complaint, state as follows:

ALLEGATIONS

JURISDICTION

1. At all times relevant to this Complaint, Farview was a registered introducing broker ("IB") NFA Member. As such, Farview was and is required to comply with NFA Requirements and is subject to disciplinary proceedings for, violations thereof.

ANSWER:

Respondents admit the allegations of Paragraph 1 of the Complaint.

2. At all times relevant to this Complaint, Brooks was an associated person ("AP") and a listed principal of Farview, and an NFA Associate. As such, Brooks was and is required to comply with NFA Requirements and is subject to disciplinary proceedings for violations thereof, Farview is liable for violations of NFA Requirements committed by Brooks in the course of his activities on behalf of the firm.

ANSWER:

Respondents admit the allegations of Paragraph 2 of the Complaint.

BACKGROUND

3. Farview is located in Chicago, Illinois. The firm has operated as an independent IB since April 7, 2009. Brooks is a managing member of Farview and a CME registered floor broker.

ANSWER:

Respondents admit the allegations of Paragraph 3 of the Complaint.

4. NFA previously audited Farview in February 2010, focusing mainly on the sales activities and supervision of an individual who was an AP of the firm at the time, but whom Farview subsequently terminated in April 2010. During the 2010 audit, NFA also conducted limited testing of the firm's financial operations and found that Farview did not have current books and records and misclassified certain commission receivables as current assets. When the 2010 audit fieldwork concluded, it appeared that Farview had corrected its financial deficiencies.

ANSWER:

Respondents admit that the NFA audited Farview in February 2010 and admit that at the conclusion of the fieldwork, the NFA was satisfied with the financial condition and reporting of the firm. Respondents deny that Farview did not have current books and records or that it "misclassified certain commission receivables as current assets."

Answering further, Respondents state that its classification of commission receivables was based on the instructions for the Form 1-FR-IB ("1-FR-IB") applicable to IBs and that Farview and Brooks believed that, based on those instructions and generally accepted accounting principles, Farview correctly included as current assets commission receivables expected to be collected within 30 days.

In particular, the CFTC Form 1-FR-IB Instructions for Line 4.B. Commissions and other Fees Receivable states as follows:

> **"Report on this line commissions and brokerage receivable from FCMs and foreign brokers. If the amount is outstanding longer than 30 days from the date it is due [*emphasis added*], it must be reported as a noncurrent asset. If any such receivable is held back by the FCM or broker to cover potential losses or as a security deposit, such amount is to be treated as a noncurrent asset even though the receivable was accrued less than 30 days earlier."**

In spite of this clear rule, the NFA directed Farview to the instructions "applicable to FCMs, not IBs." *See* e-mails of June 16 and July 19 from Todd Maines at the NFA attached hereto as Exhibit A and Exhibit B.

Farview and Brooks, through their counsel, had numerous discussions with the NFA auditors pointing out Farview's good faith position that the instructions were followed and that the NFA's interpretation of current receivables would have required Farview to wait until 30 days after financial statements were prepared, make a second determination as to whether the receivables were collected and then retroactively amend its 1-FR-IB. This would result in a financial statement as of a certain date reflecting activity in the future meaning that the financial statements were not really done as of the date of preparation.

To this date, Respondents have never been given an explanation as to why the NFA's own instructions for IBs are not to be followed.

5. NFA commenced another audit of Farview in April 2011, at which time the firm had six APs, twelve active accounts, and provided floor execution services for several traders. During the 2011 audit, NFA found continuing problems with Farview's financial operations, including failure to maintain adequate capital for numerous months, account properly for one of the firm's assets, and properly classify certain receivables, In addition, the audit revealed that Farview failed to implement an adequate anti-money laundering ("AML") program and that the firm and Brooks failed to adequately supervise the firm's operations.

ANSWER:

Respondents admit that the NFA commenced another audit in April, 2011 and admits that the NFA alleged problems with Farview based on the NFA's failure to follow CFTC instructions for the 1-FR-IB, which Farview was following. The issues involved the instructions for classifying deposits of an IB at an FCM and the NFA's requiring a standard for AML compliance and supervision beyond that required of an IB of Farview's size. Respondents deny the remaining allegations of Paragraph 5 of the Complaint.

APPLICABLE RULES

6. NFA Financial Requirements Section 5(a) requires, in pertinent part, that an IB must maintain adjusted net capital ("ANC") of at least $45,000.

ANSWER:

Respondents admit the allegations of Paragraph 6 of the Complaint.

7. NFA Financial Requirements Section 5(c) provides, in pertinent part, that an IB Member that is required to file any document with or give any notice to the Commodity Futures Trading Commission ("CFTC") under CFTC Regulation 1.12 [Maintenance of minimum financial requirements by futures commission merchants and IBs], or 1.17 [Minimum financial requirements for futures commission merchants and IBs] shall also file one copy of such document with or give such notice to NFA at its Chicago office no later than the date such document or notice is due to be filed with or given to the CFTC.

ANSWER:

Respondents state that Section 5(c) and the requirements under CFTC Regulation 1.12 and 1.17 speak for themselves.

8. NFA Compliance Rule 2-10 provides, in pertinent part, that each Member shall maintain adequate books and records necessary and appropriate to conduct its business including, without limitation, the records required to be kept under CFTC Regulations 1.18 and 1.32 through 1.37.

ANSWER:

Respondents state that Rule 2-10 and the CFTC Regulations addressed therein speak for themselves.

9. NFA Compliance Rule 2-9(c) provides, in pertinent part, that each IB shall develop and implement a written AML program approved in writing by senior management reasonably designed to achieve and monitor the Member's compliance with the applicable requirements of the Bank Secrecy Act and the implementing regulations promulgated thereunder by the Department of the Treasury and the CFTC. Among other requirements, an AML program must provide for:

a. an independent annual review of the AML program to be conducted by Member personnel or by a qualified outside party; and

b. ongoing training for appropriate personnel.

ANSWER:

Respondents deny that the requirements and provisions of Rule 2-9(c) relating to a written AML program are correctly and fully set out in Paragraph 9 and state affirmatively that Rule 2-9(c) and the requirements alleged by the NFA intentionally omit the language of an NFA interpretive notice providing the following:

> **"NFA recognizes, of course, that the exact form of program adopted by a Member will vary based on a Member's type of business, the size and complexity of its operations, the breadth and scope of its customer base, the number of firm employees, its risks and vulnerabilities to money-laundering and the firm's resources."**

Additionally, the NFA's very own web seminar specifically refers to the above language in the interpretive notice.

10. NFA Compliance Rule 2-9(a) provides that each Member shall diligently supervise its employees and agents in the conduct of their commodity futures activities for or on behalf of the Member. Each Associate who has supervisory duties shall diligently exercise such duties in the conduct of that Associate's commodity futures activities on behalf of the Member.

ANSWER:

As and for the answer to Paragraph 10 of the Complaint, Respondents adopt their answer to Paragraph 9.

COUNT I
VIOLATIONS OF NFA COMPLIANCE RULE 2-10 AND NFA FINANCIAL REQUIREMENTS 5(a) AND 5(c): FAILURE TO KEEP ACCURATE FINANCIAL RECORDS, MAINTAIN REQUIRED MINIMUM ADJUSTED NET CAPITAL, AND FILE TELEGRAPHIC NOTICE.

11. The allegations contained in paragraphs 1 and 3 through 8 are realleged as paragraph 11.

ANSWER:

As and for the answer to Paragraph 11 of the Complaint, Respondents adopt and realleges their answers to Paragraphs 1 and 3 through 8 as though fully set forth herein.

12. When NFA commenced its audit of Farview in April 2011, Farview had not yet prepared its January or February 2011 capital computations. Therefore, NFA requested Farview to prepare these monthly capital computations, which the firm did.

ANSWER:

Respondents deny the allegations of Paragraph 12 and state that Farview did perform continuing capital computations, but the NFA requested Farview to prepare the computations as part of form 1-FR-IB rather than in the form Farview had performed the calculations. Moreover, the information for January and February had to be specifically verified by Farview due to a criminal issue with an employee of Bear Brokerage, LLC, who did limited bookkeeping for Farview.

13. When Farview submitted the January and February 2011 capital computations to NFA, Brooks admitted that the firm was under its minimum ANC requirement as of January 2011.

ANSWER:

Respondents admit the allegations of Paragraph 13 of the Complaint.

14. Moreover, in reviewing Farview's 2010 monthly capital computations, NFA also determined that the firm was under its minimum ANC requirement for May, as well as for September through November 2010, in amounts ranging from approximately $6,600 to almost $23,000.

ANSWER:

Respondents admit that the NFA determined that Farview was under its minimum net capital for May and September through November, 2010, but such determination was based substantially on the NFA's refusal to follow the express instructions for preparation of a 1-FR-IB set out by the NFA for IBs as to classification of both commissions receivable as current assets and deposits of an IB with an FCM.

The NFA refused to follow the express instructions as to how an IB is to classify receivables and instead directed Farview to follow instructions for FCMs. Additionally, it refused to even consider documentation from Farview's FCM as to the nature of the funds on deposit at the FCM which specifically rebutted any presumption that the funds were a security deposit, as provided in Financial and Segregation Interpretation No. 14, a copy of which is attached hereto as Exhibit C. In fact, a representative of PFG offered to speak to the NFA regarding the fact that this was not a security deposit, but the NFA had no interest in doing so.

15. Farview failed to file telegraphic notice of the foregoing capital deficiencies until April 20, 2011, and then only at the instruction of NFA.

ANSWER:

Based solely on the NFA's continued insistence that Farview's net capital was below the minimum, which Farview continued to dispute in good faith, and despite the clear and unambiguous instructions set out by the NFA itself for IBs in preparing a 1-FR-IB, Farview still acceded to the NFA's position and, immediately in response to the NFA's request to file telegraphic notice, Farview filed such notice with its FCMs and with the NFA.

16. NFA requested that Farview provide NFA with a pro-forma net capital computation as of April 20, 2011, along with supporting documents. In reviewing these records, NFA found that Farview had misclassified an asset held at a futures commission merchant ("FCM") as a current asset. Specifically, Farview treated 100% of the funds on deposit in a proprietary trading account at the FCM as a current asset. However, since there was little or no trading in this proprietary account, the funds in such account were tantamount to a security deposit and, therefore, under CFTC regulations, only one-half of the amount of such funds could be treated as a current asset.

ANSWER:

Respondents admit that NFA concluded that Farview had misclassified an asset held at an FCM, but Respondents deny the correctness of the conclusion that it was a security deposit, and Farview submitted documentation to the NFA that rebutted the presumption in good faith based on Financial and Segregation Interpretation No. 14 which states money at an FCM is only "presumed" to be a security deposit. Answering further, Farview, at the specific recommendation of the NFA audit staff manager, filed a request with the CFTC for clarification as to how the deposit at the FCM should be treated based on the clear language of the instructions. After a somewhat lengthy delay in providing a response, the CFTC responded that Farview should follow the NFA's authority, although the CFTC provided no explanation, no reconciliation of the NFA's position with the clear language of the instructions which Farview had followed and no other reason to support the NFA's position.

17. Reclassifying half the value of the funds in the proprietary account as non-current caused Farview to fall under its minimum ANC requirement for February, March, and April 2011, as well as for five additional months in 2010 - April, June through August, and December 2010. The reclassification also required Farview to file telegraphic notice for these periods and prompted Brooks to infuse additional funds to address the firm's capital shortfall.

ANSWER:

Respondents admit the allegations of Paragraph 17 of the Complaint but continue to disagree with the NFA's reclassification since Respondents rebutted the presumption that the money at the FCM was a security deposit. Answering further, Respondents state that Brooks contributed capital after the NFA finally determined what it wanted even without answering.

18. Because of Farview's financial deficiencies, NFA also required the firm to file monthly financial reports, along with supporting documentation, to ensure Farview was in capital compliance.

ANSWER:

Respondents admit that the NFA required it to file monthly financial reports with supporting documentation but answering further, Farview states that it has done so willingly, punctually and in total compliance with the NFA's request even though Respondents still maintain that the NFA's concluding there were financial deficiencies was based on its ignoring its and CFTC rules and instructions.

19. In reviewing the subsequent monthly reports Farview filed for April, May and June 2011, NFA determined that Farview continued to classify commission receivables as a current asset, even though NFA had advised the firm during the 2010 audit that the commission receivables were non-current if they were uncollected within 30 days after they were due. Reclassifying these receivables as non-current assets caused Farview to fall under its ANC requirement for May 2011 and to have less than $20 in excess net capital for June 2011.

ANSWER:

Respondents admit the allegations of Paragraph 19 of the Complaint and aver that all reports were filed on time, that Farview acceded to the NFA's requests to restate the reports willingly and punctually, that Farview received numerous communications with the NFA contradicting deadlines which had already been agreed to and that the NFA filed to provide Respondents any opportunity to have a face-to-face meeting to discuss Respondents' position and its attempts to comply with the rules as written. Answering further, whether the excess net capital is $20 over or $20,000 over, it is still in excess of the minimum.

20. By reason of the foregoing acts and omissions, Farview is charged with violations of NFA Compliance Rule 2-10 and NFA Financial Requirements Sections 5(a) and 5(c).

ANSWER:

The charged violations speak for themselves but Respondents deny that Farview should be charged with these or any other violations and aver that, after Respondents' and their attorneys' attempts to convince the NFA that its position was unsupported by the rules, Respondents have acceded to the NFA's position, have been preparing monthly 1-FR-IB reports timely and consistent with the NFA's requests, and Farview has remained above net capital requirements.

COUNT II
VIOLATION OF NFA COMPLIANCE RULE 2-9(c): FAILURE TO IMPLEMENT AN ADEQUATE AML PROGRAM.

21. The allegations contained in paragraphs 1, 3, 5 and 9 are realleged as paragraph 21.

ANSWER:

As and for the answer to Paragraph 21 of the Complaint, Respondents adopt and realleges their answers to Paragraphs 1, 3, 5 and 9 as though fully set forth herein.

22. NFA's Interpretive Notice entitled "FCM and 18 Anti-Money Laundering Program" ("AML Interpretive Notice"), which expands upon the requirements of NFA Compliance Rule 2-9(c), provides that an 18 must provide for annual independent testing of the adequacy of its AML program.

ANSWER:

Respondents admit the allegations of Paragraph 22 of the Complaint.

23. The AML Interpretive Notice also provides that an IB must present ongoing training with regard to AML for all appropriate personnel annually and should maintain records to evidence compliance with this requirement.

ANSWER:

Respondents admit the allegations of Paragraph 23 of the Complaint.

24. Farview failed to maintain documentary evidence that an adequate independent AML audit had been completed since the firm became registered in 2009. In addition, Farview failed to provide AML training for one of its APs and failed to maintain evidence that two other APs completed any AML training.

ANSWER:

Respondents deny the allegations of Paragraph 24 of the Complaint. Answering further, Farview adopts the Affirmative Defenses filed as part of this Answer.

25. By reason of the foregoing acts and omissions, Farview is charged with violations of NFA Compliance Rule 2-9(c).

ANSWER:

Respondents deny that Farview should be charged with such violation or any other violation.

COUNT III
VIOLATION OF NFA COMPLIANCE RULE 2-9(a):
FAILURE TO SUPERVISE.

26. The allegations contained in paragraphs 1 through 5 and 10 are realleged as paragraph 26.

ANSWER:

As and for the answer to Paragraph 26 of the Complaint, Respondents adopt and realleges their answers to Paragraphs 1 through 5 and 10 as though fully set forth herein.

27. Brooks is Farview's managing member and responsible for the firm's financial operations. As such, Brooks was obligated to ensure Farview and its employees complied with NFA Requirements, including financial requirements.

ANSWER:

Respondents admit the allegations of Paragraph 27 of the Complaint.

28. As evidenced by the violations alleged above, Brooks and the firm failed to adequately carry out their supervisory duties to ensure that the firm maintained required minimum ANC and accurate financial records, prepared accurate net capital computations, and implemented its AML program.

ANSWER:

Respondents deny the allegations of Paragraph 28 of the Complaint.

29. The firm's monthly net capital computations, for which Brooks was responsible, clearly showed that Farview was not maintaining adequate capital at all times. However, Brooks did not take any steps to correct these financial deficiencies, file required telegraphic notice, or ensure timely completion of all monthly computations until prompted by NFA. In addition, Brooks repeatedly disregarded NFA's instructions about classifying overdue commission receivables as noncurrent assets.

ANSWER:

Respondents deny the allegations of Paragraph 29 of the Complaint.

30. Brooks' indifference to regulatory directives and his continuous bickering with NFA staff not only further evidenced his failure to supervise but directly contributed to the firm's capital deficiencies and needlessly complicated and prolonged NFA's 2011 audit.

ANSWER:

Respondents absolutely deny the allegations of Paragraph 30 of the Complaint and state that Respondents have at every step tried to cooperate with continuous hurdles and lack of cooperation from the audit staff. Answering further, Respondents state that they calculated net capital from January, 2010 through April, 2011 in the same way and the NFA concluded at the end of the audit in 2010, that all was fine. The NFA then retroactively in 2011 determined that this method was wrong and that Farview had not filed telegraphic notice.

31. By reason of the foregoing acts and omissions, Farview and Brooks are charged with violations of NFA Compliance Rule 2-9(a).

ANSWER:

Respondents deny that Farview or Brooks should be charged with such violation or any other violation.

AFFIRMATIVE DEFENSES

Respondents believe it necessary in this proceeding to bring a number of matters to the attention of the Business Conduct Committee with respect to the positions of the

NFA Audit Staff as to the three counts in the proceeding relating to financial requirements, anti-money laundering and supervision.

Respondents have undertaken exhaustive efforts to explain to the NFA their good faith questions, have made their utmost efforts to respond to an audit procedure which has made it difficult to attend to the growth of Farview's business, and have questioned the NFA's utter refusal without explanation to follow the instructions for IBs on which Respondents and numerous other IBs rely.

A. Financial Requirements

1. Current Receivables

Respondents understand that, in computing net capital and insuring that the net capital of the firm exceeds $45,000, an IB is to calculate its net capital continuously. As we believe the Committee is aware, net capital is computed by staring with current assets and deducting liabilities as recited on Form 1-FR-IB. With respect to the determination of a current receivable for purposes of filling out Line 4.B., the instructions for Form 1-FR-IB state as follows:

> "Report on this line commissions and brokerage receivable from FCMs and foreign brokers. If the amount is outstanding longer than 30 days from the date it is due ***[emphasis added]***, it must be reported as a noncurrent asset. If any such receivable is held back by the FCM or broker to cover potential losses or as a security deposit, such amount is to be treated as a noncurrent asset even though the receivable was accrued less than 30 days earlier."

Based on these instructions, Farview had always calculated its receivables based on the date on which the receivables are due. This is the plain language set out in the

instructions above. If the receivables are expected to be paid within 30 days, Farview listed them as current receivables.

The computation of adjusted net capital is done as of a certain date and, as of that date, Farview is to determine whether the receivables are due within 30 days. The NFA, however, in complete disregard of these explicit instructions, has taken the position that if, after preparing the adjusted net capital computation, the receivable has not been paid within 30 days thereafter, then Farview has to go back, restate its 1-FR-IB retroactively and exclude the receivable that was not collected within the following 30 days as a current receivable.

Respondents, in good faith, had sat down with the auditors of the NFA during the audit in early 2010, explained their understanding of this calculation and, when the 2009 audit was completed in early 2010, Farview was not cited for misclassifying its receivables using the language of the instructions. However, in the audit done in 2011, the NFA auditors again raised this issue. Farview explained its position in a myriad of telephone discussions and e-mails with the NFA citing the instructions, but the NFA was unyielding in demanding that financial statements prepared be "reprepared" 30 days later based on collections and that Farview then file restated financial statements. The NFA adjusted monthly 1-FR-IB reports from Farview based on this faulty premise. *See*, for example, e-mail dated August 11, 2011 from Todd Maines at the NFA attached hereto as Exhibit D.

Respondents have attempted to explain to the NFA that, when any company files a financial statement, it is obligated to give its best estimate as to what is a current

receivable as of the date the statements are prepared. For example, when General Motors prepares a balance sheet as of a certain date and shows current receivables, it does not wait for 30 days and then amend its balance sheet. It is prepared as of a date and accurate as of such date. Based on the explicit instructions of the NFA, Respondents understand that a receivable is current if the due date is 30 days from the date of the financial statement. After numerous discussions which Respondents believe were undertaken in good faith and in an effort to get a clear understanding as to why the instructions above are not followed by the NFA, the NFA merely stated that the instructions for FCMs do not read as such and those are the instructions that Farview should follow, despite the fact that Farview is not an FCM but an IB. *See* e-mail dated July 18 from Farview's counsel and e-mail of the same date from Todd Maines at the NFA attached hereto as Exhibit E.

After spending hours and hours of time, having a continuous disruption of its business with often daily demands by the NFA to make changes in statements by the "end of the day", Farview finally conceded the point and has prepared and continues to prepare its 1-FR-IB forms to date utilizing what it believes to be the NFA's flawed interpretation.

Frankly, Respondents are at a loss as to why, after all these discussions took place, and after Farview is now filing its 1-FR-IB with the NFA using the NFA's interpretation on receivables, the NFA still seeks to bring an enforcement proceeding against Farview. Despite continual assurances from NFA auditors that they understood that Farview had been asserting a good faith position, despite the parties having a good dialogue and ultimately Farview following the NFA's position (regardless of whether Respondents

agree with it), Respondents now find themselves the subject of an enforcement proceeding. To say that this is a stunning development is an understatement, and Respondents urge that this enforcement proceeding be dismissed for this reason alone.

2. Security Deposit

Farview cleared a number of its transactions through PFG. In an effort to have cash available in its business, Farview directed PFG that, rather than pay Farview 100% of its commissions on transactions for Farview's activity as an IB, PFG should simply deposit 10% of the funds in an account at PFG as Farview's "alternate bank account." This account has absolutely nothing to do with trading, is not viewed by PFG and never was viewed by PFG as a security deposit, PFG had no right to use or suggest the use of that money for any purpose other than as safe keeping for Farview and, therefore, the funds clearly do not come within the definition of a security deposit. A simple review of Financial Interpretation No. 14 referring to CFTC Financial and Segregation Interpretation No. 14 states as follows:

> "An IB who has not entered into a guarantee agreement with an FCM which satisfies the requirements of Regulation 1.10(j) is required to meet the minimum adjusted net capital requirement for an IB set forth in Regulation 1.17(a)(1)(ii). In determining compliance with such capital requirement an IB is permitted by Regulation 1.17(c)(2)(ix) to treat one-half of the security deposit it has with the FCM clearing its customers accounts as a current asset. In an attempt to give the IB 100% credit for a security deposit, some FCMs have credited the security deposit to a commodity trading account to make it appear the deposit represents margin for the IB's trading account. If the balance in an IB's trading account at an FCM is not commensurate with the amount of trading actually done by the IB and no other deposit in the nature of a security deposit has been made with the FCM, then one-half of the balance in the trading account must be presumed [***emphasis added***] to be a security deposit and be treated by the IB as a non-current asset."

Thus, there is only a presumption that funds in an account at an FCM are a security deposit and the interpretation specifically uses the word "presumed", meaning that the presumption can be rebutted.

When the NFA saw that the balance in this account at PFG was shown as a current asset on Farview's 1-FR-IB, the NFA demanded that only 50% of that cash be counted as a current receivable and advised Farview that, based on that reclassification, Farview was under its net capital. Respondents went back and forth with the NFA trying to explain that the account was only presumed to be a security deposit and the facts evidenced that is was not. In fact, Farview produced e-mails to PFG from the time it originally set up this account which clearly demonstrates that it was Farview's decision to hold back 10% and was not a security deposit. *See* e-mail attached hereto as Exhibit F. Moreover, when this dispute arose regarding the security deposit, Farview sought to avoid the issue by simply asking PFG to wire out the funds which it did immediately. Had this been a security deposit, PFG would not have done so.

The NFA refused to accept Farview's position, and sent a threatening e-mail at 4:55 p.m. on Friday, April 29. *See* e-mail dated April 29 from Todd Maines at the NFA attached hereto as Exhibit G. After Farview finally was able to speak to the director of audits of the NFA, she suggested that Farview contact the CFTC to try and obtain its interpretation of that provision. *See* e-mail dated May 2, 2011 from Todd Maines at the NFA attached hereto as Exhibit H. Farview immediately did so, and after 10 days, finally received a response from a Jonathan White, formerly an auditor with the NFA, who,

without any explanation, any support or any other basis provided to Respondents, concluded that Farview has to follow the NFA's interpretation and only 50% of the account should be counted as a current asset. Having exhausted its alternatives for trying to convince the NFA that Farview's interpretation should be considered correct, Farview again acceded to the NFA's request and amended its monthly 1-FR-IBs totally consistent with only counting 50% of the account as a security deposit.

Farview has not done anything other than to raise a good faith issue as to the NFA's interpretation of a security deposit in this case and, after unsuccessfully challenging it, has totally conceded the issue. Yet, after the issue has been conceded and after Farview has continued to file its monthly 1-FR-IBs with the NFA only counting 50% of the cash at PFG as a current asset, Respondents find themselves the subject of an enforcement proceeding which raises that issue. In light of the history of the matter and Respondents' attempts at cooperation, again this is an unfounded charge which we believe should not be sanctioned by the Business Conduct Committee. We believe the action should be dismissed.

B. Anti-Money Laundering

Farview is a small firm, it first applied for registration as an IB in December, 2008, and did not begin business until April, 2009. In order to be registered, Farview went through all the necessary registration requirements and submitted all the necessary documents to the NFA, including supervisory procedure, anti-money laundering policy and complied with all requirements all of which resulted in its registration being approved. Being a small firm, any new customer is subjected to rigorous requirements to

insure that no untoward action has occurred and that the customer is a legitimate customer whom Farview can service as an IB.

After the audit in early 2010, Farview received a clean letter from the NFA. When the NFA instituted an audit in 2011, among the items it cited was Farview's failure to comply with anti-money laundering requirements for 2010. Nothing could be further from the truth.

Farview had a file of all new accounts opened having all the proper documentation. AML procedures were not only followed but were continuously addressed in meetings with Farview's associated persons to ensure that they were aware of all those requirements. Nevertheless, the NFA's issue with Farview's AML policy was that it had not had an independent person come in and review the procedures and ensure that compliance with the procedures had been done. This conclusion was wrong and unsupported. Farview's counsel reviewed new customer accounts, set aside separate files dealing with anti-money laundering issues and monitored Farview's compliance. *See* e-mail dated May 10, 2011 from counsel for Farview attached hereto as Exhibit I. When the NFA received the e-mail, its response was that there should have been something in writing from counsel saying that the supervision and monitoring had occurred. *See* e-mail dated May 24, 2011 from Patrick Moongthaveephongsa at the NFA attached hereto as Exhibit J.

Counsel immediately prepared a letter stating that it had done its monitoring as a third-party, and Respondent Brooks, using a detailed AML checklist, went through and noted that he had done all the procedures required on the anti-money laundering issues.

On June 13, the NFA sent yet another e-mail insisting that the AML audit submission by Farview was insufficient. *See* e-mail dated June 13, 2011 from Todd Maines at the NFA attached hereto as Exhibit K. Respondents also advised the NFA that both the written instructions regarding AML auditing and the webcast entitled Anti-Money Laundering which the NFA publishes on its website and which both Farview's manager and associated persons have watched as well as its counsel, state that the level of an AML audit should be commensurate with the size of the firm. In fact, the webcast even states that, for a one person IB, a memo alone is sufficient.

This Committee can certainly discern from the 1-FR-IBs which have been filed by Farview that Farview is a fledgling business trying to increase its business to be a substantial IB. However, since its inception, Farview has been very small and has had few customers and one or two employees. Respondents therefore believe that the level of monitoring, supervision and compliance has been totally commensurate with the size of its business and sufficient to satisfy all the requirements. Still in an effort to appease the NFA, Farview submitted on June 30, 2011, a 20 page audit report to the NFA. *See* e-mail dated June 30, 2011 with attachment from Farview counsel attached hereto as Exhibit L. Farview never heard another word from the NFA except to state that it was going to close the audit because everything satisfactory had been done. After doing so, once again Respondents are stunned by the filing of this enforcement proceeding. Again, the claim of a violation based on anti-money laundering procedures should be summarily dismissed.

C. Supervision

The allegation that Respondent Brooks has disregarded his supervisory responsibilities is nothing short of outrageous. Some background on his supervisory efforts is necessary.

The initial audit of Farview in 2010 was precipitated by Faview's hiring a gentleman named Perry Hoffman. Farview did a search of the NFA website to determine if Hoffman had any "skeletons in the closet" before hiring him and found nothing with regard to his registration. Therefore it proceeded to hire him. When the NFA came into Farview's office in early 2010, it made a number of allegations regarding Mr. Hoffman's past, none of which were known to Farview, Brooks monitored him even more closely, installed recording devices at the NFA's request and did everything else that the NFA required. However, Farview was uncomfortable and shortly thereafter, Farview terminated Mr. Hoffman. Again, this evidences Farview's and Brooks' continued attempts to comply with NFA demands and even go beyond official requests from the NFA.

Now, in 2011, the NFA claims that the matters regarding the calculation of current assets based on current receivables, the refusal to designate an account as a security deposit and failure to follow AML procedures are evidence of a lack of supervision. As stated above, Farview has had rigorous discussions, recordkeeping analyses, prepared reports, amended reports and has communicated with the NFA, giving it priority over all other matters, all in an effort to insure that it is fully compliant with all requirements. Despite the incredible demands put on Farview by the NFA with regard to daily and

arbitrary response times, Respondent Brooks has spent more time dealing with the NFA than he has trying to build up his business and service his customers. This not only occurred in 2010, but also in 2011, from April through August, 2011. He was never at any time indifferent to directives regarding its capital deficiencies.

Despite having good faith differences of opinion on NFA interpretations, Respondent Brooks directed that Farview accede in all respects to the NFA's demands, that everything be done necessary to fulfill the NFA's demands and that Farview continue to do everything possible to satisfy the NFA. We cannot imagine any managing member of a firm taking more time and spending more days dealing with and following the NFA demands than Respondent Brooks has done in this case. If Respondents were indifferent, would they have met the NFA's deadlines each month? Ridiculously, the NFA alleges in Paragraph 30 that Respondent Brooks was bickering. That is outrageous and totally unsupported. There was no bickering at all. The NFA interprets a good faith dispute as bickering. Moreover, bickering requires the participation of two parties.

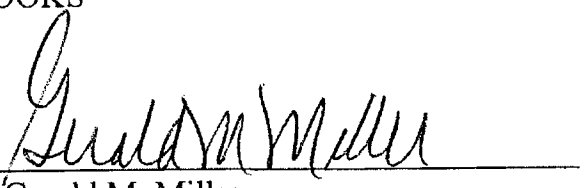
If, as the NFA suggests, Respondent Brooks was indifferent or disregarded the NFA, why has Farview filed its 1-FR-IBs monthly with the NFA on time and consistent with NFA directives even if not supported by its own instructions. The reason is clear, Respondent Brooks and Farview are attempting to build a business with the cooperation and support of the NFA and not despite the NFA. While our understanding is that the NFA is to work for and support its members and work with its members, the conduct of the NFA audit staff with respect to Farview shows it relentlessly erected a series of obstacles at every step of the way. Frankly, as a result, Farview has had second thoughts

as to why it should be an IB. This is a situation where an IB has done everything in its power to be compliant and, recognizing that there have been capital deficiencies at times, which were corrected by the infusion of additional capital, Farview has been operating with substantial additional net capital for months. Hopefully, Farview can resume its goal of building its business to a level to justify its existence.

In summary, Respondents believe that filing of the enforcement proceeding against them is totally without merit, and it shows a total lack of good faith and understanding on the part of the NFA. We respectfully submit to the Business Conduct Committee that it should dismiss these proceedings and allow Farview to continue to build its business in full compliance with NFA and CFTC requirements.

Respectfully submitted,

FARVIEW INVESTMENTS, LLC and RICK E. BROOKS

By: 

Gerald M. Miller
Attorney for Respondents

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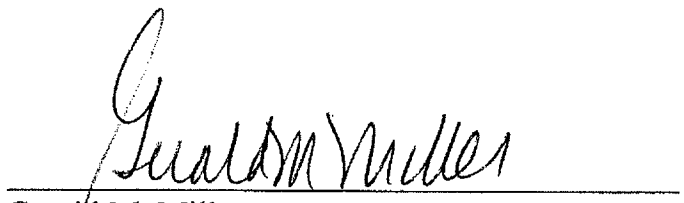
(312) 786-5100
(312) 786-5111 (facsimile)
gmiller@vgmlaw.com

CERTIFICATE OF SERVICE

Gerald M. Miller, an attorney for Respondents, certifies that he caused a copy of the foregoing **ANSWER** to be served upon the National Futures Association via electronic mail at the address listed below before the hour of 5 p.m. on November 16, 2011.

Docketing@nfa.futures.org
National Futures Association
300 S. Riverside Plaza
Suite 1800
Chicago, Illinois 60606



Gerald M. Miller

EXHIBIT A

Gerald Miller

From: Todd Maines [tmaines@NFA.Futures.Org]
Sent: Thursday, June 16, 2011 3:36 PM
To: Gerald Miller; rbrooks@farviewinvestments.com
Cc: Jonathan Miller; Patrick Moongthaveephongsa
Subject: RE: April Net Capital

Gerry,

As stated in emails past and in our conversations, NFA has a duty to ensure that all Members are in compliance with our Rules and the CFTC's Regulations, particularly those which involve compliance with capital requirements. It is more than apparent that Farview has had difficulties in the preparation of its monthly financial statements, and that is why I set the firm on monthly reporting. This is not a part of the audit, but will be an on-going requirement in order to ensure that the firm is in compliance with its capital requirements and reporting all balances as required.

However, since you continue to question the Regulations that Farview is required to follow and the Regulators that must enforce them. I will address you concerns once more.

The timing of when commission receivables are collected has everything to do with the proper classification of those receivables under the CFTC's Regulations. As discussed in the past, CFTC Regulation 1.17, in part, defines a current asset as a commission receivable, in that, such a receivable is outstanding no longer than 30 days from the date they are due. The application of this regulation and how the industry adheres to it is that if commissions are generated/earned in one month they must be collected in the subsequent month in order to be considered current. When preparing your monthly financial statements, you may, at that time, believe that you will be receiving the outstanding receivables within the required 30 days and indicate that it may be a current asset at that time. However, you have an obligation to ensure capital compliance at all times. As part of that obligation you must ensure that your financial records are accurate on an on-going basis, which means making amendments where necessary, such as reclassifying balances according to the regulations. Generally, if the balances, individually and collectively, in question are immaterial to the firm's capital position, an amendment wouldn't necessarily be required.

Now the two invoices you indicated actually add up to $3,940.10, a material amount, which is over 18% of the ENC that you stated on the April '11 financial statement. However, I am not able to verify the stated ENC until I get the rest of my questions/requests answered.

Guidance, from the Commission, in the completion of IB financial statements indicate that: "The Form 1-FR-IB must be prepared in conformity with generally accepted accounting principles, except where the regulations specify otherwise, applied on a basis consistent with that of the IB's preceding financial report and must include, in the statements or in accompanying notes, all disclosures necessary to make the report a clear and complete statement of the IB's financial position under the Commission's rules."

This point has been unconditionally supported by NFA Rules, CFTC Regulations, and industry standards. If you also need an independent view on this matter, see the following article from the National Introducing Brokers Association:

http://www.theniba.com/nibajournal/compliance/10-05-24/Net_Capital_and_Reporting_Requirements_for_IIBs.aspx

Further, to compare an entity such as an introducing broker to that of GM, in the context relating to commissions earned and collected in a specific time period as required by the Commodity Exchange Act is illogical and incoherent. You simply cannot compare the two. GM is not required to adhere to the CFTC's Regulations.

To address your point about when the audit began, please remember that we tried to have it completed quickly and efficiently; however, you had asked us for our patience and cooperation after each request as an affiliated firm dealt

with another issue. Therefore, we have been more than accommodating to you in allowing for more time than usual to produce documents that should be, as the Regulations state, 'readily available'. We can only review what you produce when you produce it, which, for some documents has been days or weeks.

To date the following documents are outstanding for the audit:
-Amended monthly net capital computations for the months the firm indicated that they fell under their net capital requirements as outlined in the Notice filed on June 10, 2011
-Amended 2010 certified financial statement
-Amended AML audit report for 2010

Again, NFA Compliance Rule 2-5 requires all NFA Members to cooperate fully and promptly with any NFA audit or investigation. Failure to comply may result in disciplinary action.

Todd A. Maines
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The opinions expressed in this email are based upon the representations you have made to a representative of the Compliance Department of National Futures Association ("NFA"). Any different, changed, or omitted facts or conditions might render this opinion void. Moreover, this response represents the opinions of Compliance Staff and does not necessarily reflect the views of NFA.

From: Gerald Miller [mailto:gmiller@vgmlaw.com]
Sent: Wednesday, June 15, 2011 1:51 PM
To: Todd Maines; Jonathan Miller; Patrick Moongthaveephongsa
Cc: rbrooks@farviewinvestments.com
Subject: RE: April Net Capital

Todd,

After reviewing your e-mail, I continue to be befuddled by your position. A balance sheet is prepared as of a date and is not a changing document. As of the date of the statement, the issuer of the statement includes as current receivables those receivables which it expects in good faith to receive within 30 days. Whether the receivable is ultimately collected has nothing to do with the status of the receivable on the date of the statement.

The notion that, after preparing a balance sheet, its issuer has to wait 30 days to see if a receivable is collected and, if not, go back and change the statement, is not only ridiculous but violates every accounting standard known to man. We went through this a year ago and now, in an obvious attempt to create "make work" for our client, you are once again raising the same unsupportable argument. Do you think for one minute that General Motors, after issuing a balance sheet, ever goes back and revises it based on what happens during the 30 days thereafter?

I can't help but recall a conversation I had with you a month or so ago in which I asked you whether the end game is to make life as difficult as possible for Farview until it simply gives up because the time required of it prevents it from conducting its business. Your response was that one of the purposes of the NFA is to assist its members and take into

account the needs of those members. I can't see any way that these non-stop demands and to-do lists do anything to assist Farview; instead, it imposes a burden disproportionate to the size of its business. Unfortunately, it appears there is little accountability for this constant nitpicking. Your audit that began in February now appears to be an ongoing limitless process.

For your information, the amount of the invoices included in the April 30 current receivables that were not collected within 30 days of April 30 are just over $3000 and will leave Farview with substantial excess net capital as of April 30. (You have already been given copies of the two invoices you refer to and you can do the math.) Invoice #1093 to Bear Brokerage, LLC is attached.

In any event, if you continue to believe you have the right to ask one of your members to go back and redo balance sheets based on what happened during the 30 days following its effective date, we request the written authority in the CFTC rules or accounting standards for that position. Absent that, we have no intention of having our client spend time rewriting history. The requirement imposed on our client is to prepare a net capital statement every month. It has done so, its April net capital, even with a retroactive adjustment of receivables was ample and we should move ahead.

Gerry

Gerald Miller
Vanasco, Genelly & Miller
33 North LaSalle Street
Suite 2200
Chicago, Illinois 60602
312-786-5100
312-786-5111(fax)

From: Todd Maines [mailto:tmaines@NFA.Futures.Org]
Sent: Tuesday, June 14, 2011 4:08 PM
To: Jonathan Miller; Patrick Moongthaveephongsa
Cc: rbrooks@farviewinvestments.com; Gerald Miller
Subject: RE: April Net Capital

Jonathan,

The copy of the April 2011 reconciliation for the bank account did not include the balances, could you please send a readable copy? It looks like there may be some reconciling items, but balance does not appear to be reconciled on the balance sheet.

Also, could you please send a copy of the May 2011 Chase bank statement?

It appears that there may be at least two receivables that were not received within 30 days, invoices #1083 and #1084, if that's the case then those will be to be reclassified. Also, Invoice #1093 is missing.

Going forward, the best way to provide support for current receivables is to include copies of the invoices/statements (similar to what you did to support the cash balance) and proof that is was deposited into the bank account in the subsequent month when it was due. This is best evidenced through copies of deposit slips (if applicable) and the bank statements to demonstrate that it was properly received. That way you can ensure that the balances are properly classified.

As a reminder, cash held at FCMs should be classified on Line 4A - Receivables from FCMs and foreign brokers – Equity in trading accounts. Half of the balance held at PFG (Acct #Z0600) should be classified as non-current. The account at Crossland (#GRP47000) is a group account which nets together two accounts, #FAR47998 and #FAR47000. When reporting these balances on the 1-FR, you cannot net the accounts together. The credit balance should be reported on Line 4A and the deficit balance should be reported on Line 15 – Amounts owed futures commission merchants and other brokers.

EXHIBIT B

Gerald Miller

From: Todd Maines [tmaines@NFA.Futures.Org]
Sent: Tuesday, July 19, 2011 10:44 AM
To: Gerald Miller; rbrooks@farviewinvestments.com
Cc: Jonathan Miller; Patrick Moongthaveephongsa; Toni Rossetti; Jennifer Sunu
Subject: RE: Farview Investments, LLC

Gerry and Rick,

According to the July 15, 2011 pro-forma net capital computation and supporting documentation that you submitted, there are two commissions receivable invoices, #1103 and #1104 totaling $6,315, that cannot be counted as current assets as they have been outstanding longer than 30 days from when the commissions were earned. Additionally, the firm did not accrue for any liabilities other than the late filing fee to NFA and the amount owed to MF Global. Based on this information, the reclassification of the commissions receivables alone will result in Farview's failure to demonstrate capital compliance by at least $3,266.

According to the Regulations, you must immediately demonstrate your ability to achieve compliance or cease conducting business as an introducing broker. **Therefore, we are imposing a deadline of 12:00 PM on Friday, July 22, 2011** by which the firm must satisfactorily demonstrate capital compliance; if this deadline is not met, Farview must then immediately notify its customers and the FCMs carrying its customer accounts that it has ceased doing business. If the deadline is not met and Farview does not send such notification to its customers and FCMs, then NFA will notify the FCMs to cease conducting business with Farview.

As a reminder, you are still required to respond to the previous requests regarding the April and May filings.

You are already aware of the notice filing requirements for failure to maintain your minimum financial requirements; however, please be reminded of CFTC Regulation 1.17(a)(5):

5) An introducing broker who is not in compliance with this section, or is unable to demonstrate such compliance as required by paragraph (a)(3) of this section, must immediately cease doing business as an introducing broker until such time as the registrant is able to demonstrate such compliance: *Provided, however,* That if such registrant immediately demonstrates to the satisfaction of the Commission or the designated self-regulatory organization the ability to achieve compliance, the Commission or the designated self-regulatory organization may in its discretion allow such registrant up to a maximum of 10 business days in which to achieve compliance without having to cease doing business as required above. If the introducing broker is required to cease doing business in accordance with this paragraph (a)(5), the introducing broker must immediately notify each of its customers and the futures commission merchants carrying the account of each customer that it has ceased doing business. Nothing in this paragraph (a)(5) shall be construed as preventing the Commission or the designated self-regulatory organization from taking action against a registrant for non-compliance with any of the provisions of this section.

And CFTC Regulation 1.17(a)(3):

(3) No person applying for registration as a futures commission merchant or as an introducing broker shall be so registered unless such person affirmatively demonstrates to the satisfaction of the National Futures Association that it complies with the financial requirements of this section. Each registrant must be in compliance with this section at all times and must be able to demonstrate such compliance to the satisfaction of the Commission or the designated self-regulatory organization.

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The opinions expressed in this email are based upon the representations you have made to a representative of the Compliance Department of National Futures Association ("NFA"). Any different, changed, or omitted facts or conditions might render this opinion void. Moreover, this response represents the opinions of Compliance Staff and does not necessarily reflect the views of NFA.

From: Gerald Miller [mailto:gmiller@vgmlaw.com]
Sent: Monday, July 18, 2011 4:31 PM
To: Todd Maines; Patrick Moongthaveephongsa
Cc: rbrooks@farviewinvestments.com; Jonathan Miller
Subject: Farview Investments, LLC

Todd,

I have attached the net capital computation for Farview Investments, LLC as of July 15, 2011 with supporting documentation, showing that the firm has excess net capital. Please note that we have not included in this calculation any income from floor execution for the month of July which would of course increase the net capital.

Gerry

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EXHIBIT C

DIVISION OF TRADING AND MARKETS

FINANCIAL AND SEGREGATION INTERPRETATION NO. 14

Accounting For Deposits And Contractual Obligations Between An Fcm And Its Introducing Brokers And Associated Persons

This interpretation by the Division of Trading and Markets addresses several issues relating to transactions and contractual obligations between a futures commission merchant ("FCM") and the introducing brokers ("IBs") and associated persons ("APs") it uses to service the accounts of its customers. Following are the basic principles which must be observed regarding such IBs and APs:

1. IBs' and APs' Trading Accounts Must be Classified Properly for Purposes of Compliance with the Commission's Segregation of Funds Rules

A commodity trading account of an AP employed by the FCM carrying the account is to be treated as a proprietary account, as that term is defined in Commission Regulation 1.3(y). This means that the account's commodity trades, margin funds, and open positions may not be commingled with the trades, funds, or positions of public customers. A commodity trading account of an IB, which has no relationship with the FCM carrying the account as set forth in Regulation 1.3(y), however, is to be treated as a customer's account and the FCM must segregate the IB's trades, margins, and open positions just as it would for any other "public customer." The distinction between an AP's and an IB's rights to have the funds in their own commodity trading accounts segregated, as well as the distinction between an IB's claims against segregated funds and the IB's claims as a general creditor, should be kept in mind in reviewing the remainder of this interpretation.

2. IBs' and APs' Security Deposits May not be Commingled with the Funds Segregated by an FCM for its Customers

Any funds which an FCM receives from an IB or an AP which are in the nature of a security deposit (other than to margin commodity positions on contract markets, such as a deposit against possible future uncollectible amounts from accounts serviced by the IB or AP), must be deposited in an account other than an account used to segregate funds for commodity customers. Such funds do not represent funds deposited to margin, guarantee, or secure the commodity trades of the AP or IB, and, therefore, may not be commingled with funds segregated pursuant to Section 4d(2) of the Commodity Exchange Act ("CEAct") for commodity customers who are trading on U.S. contract markets, nor may such funds be deposited in accounts representing funds set aside pursuant to Regulation 30.7 for customers trading on non-U.S. commodity exchanges. For the same reason, such security deposits should not be credited to a commodity trading account that the IB or AP may have on the FCM's books.

Net Capital Treatment

An IB who has not entered into a guarantee agreement with an FCM which satisfies the requirements of Regulation 1.10(j) is required to meet the minimum adjusted net capital requirement for an IB set forth in Regulation 1.17(a)(1)(ii). In determining compliance with such capital requirement an IB is permitted by Regulation 1.17(c)(2)(ix) to treat one-half of the security deposit it has with the FCM clearing its customers accounts as a current asset. In an attempt to give the IB 100% credit for a security deposit, some FCMs have credited

the security deposit to a commodity trading account to make it appear the deposit represents margin for the IB's trading account. If the balance in an IB's trading account at an FCM is not commensurate with the amount of trading actually done by the IB and no other deposit in the nature of a security deposit has been made with the FCM, then one-half of the balance in the trading account must be presumed to be a security deposit and be treated by the IB as a non-current asset.

3. Segregated Customers' Funds May not be Used to Pay Commissions and Other Fees to APs and IBs

Section 4d(2) of the CEAct and Section 1.20(a) of the Commission's regulations require an FCM to segregate and separately account for customers' commodity funds. That section of the CEAct and Regulation 1.20(c) permit certain uses of such funds and provide, among other things, that the segregated funds,

> ". . . as in the normal course of business is necessary to purchase, margin, guarantee, secure, transfer, adjust, or settle the trades, contracts or commodity options . . . may be withdrawn and applied to such purposes, including the payment of premiums to option grantors, commissions, brokerage, interest, taxes, storage and other fees and charges, lawfully accruing in connection with such trades, contracts or commodity options . . . ."

Commissions earned by APs and IBs are not necessary to the execution of commodity trades and maintenance of any resulting positions. Consequently, commissions due an IB or AP constitute a general obligation of the FCM and, as such, may not be paid by the FCM directly out of funds segregated for the benefit of commodity customers, even though commissions may have been charged to customers' accounts and the funds themselves not yet transferred from a segregated depository to an operating account of the FCM, and even though the customer need not itself pay such commissions by means of a separate transfer to the FCM.

4. IBs And APs Are General Creditors of an FCM with Respect to Any Commissions and Fees Owing to Them

In the bankruptcy of an FCM, IBs and APs are general creditors of the FCM with respect to any commissions or other fees owing to them by the FCM for services rendered to the FCM. Consequently, they have no claim for such commissions or fees against any assets segregated by the FCM for the benefit of its commodity customers pursuant to Section 4d (2) of the CEAct and Section 1.20 of the Commission's regulations, or against any assets set aside in special accounts for the benefit of customers trading on non-U.S. commodity markets pursuant to Section 30.7 of the regulations.1

Commissions charged or to be charged a customer are subject to contractual arrangements between the FCM and its customers. As such, in bankruptcy, commissions owed the FCM or payable by the FCM to third parties that are chargeable to a customer's account pursuant to a contractual arrangement, but not yet charged to such customer's account, must, based upon the FCM's right of offset, be subtracted from the net equity claim (the liability owed to that customer by the FCM in bankruptcy) of the individual customer whose account incurred the charges. Offset is only assertible by the FCM who carries the customer account and it cannot be asserted by third parties to whom the FCM in turn owes payment. Only after customer claims have been fully satisfied can general creditors be satisfied, on a pro rata basis, from the FCM's residual financial interest, if any, in segregated funds and from

other assets. An FCM's residual interest consists only of funds deposited in the segregated account to the extent they are not needed to satisfy the FCM's segregation requirements. Third party creditors have no interest in an FCM's segregated funds in bankruptcy, although when all customer liabilities are paid, any excess segregated funds revert to the FCM debtor's general estate. Thus, noncustomer creditors can have no greater interest in or claim against segregated assets than does the FCM for its residual interest therein.

The FCM's right of offset (in regard to earned, but uncharged commissions) under Section 4d(2) of the Act, therefore, does not entitle third parties to a security interest or other claim to commissions from segregated customer funds. Nor may any claim of such third parties be accorded a priority in such funds over the interests of customers of the FCM. Allowing such a priority would conflict with express Bankruptcy Code priorities and with the language of Section 4d(2) of the CEAct, which states:

> It shall be unlawful for any person, including but not limited to any clearing agency of a contract market and any depository, that has received any money, securities, or property for deposit in a separate account as provided in paragraph (2) of this section, to hold, dispose of, or use any such money, securities, or property as belonging to the depositing futures commission merchant or any person other than the customers of such futures commission merchant.

That provision bars any person from treating such funds as held other than for the exclusive benefit of customers.

APs' and IBs' contractual claims against an FCM for commissions owed them as a result of their servicing customers' accounts for the FCM cannot be satisfied with funds segregated for customers. To do so could cause customers who have no liability for such commissions to fund commission charges deriving from transactions of other customers. This limitation on recovery does not result in a windfall to the customer who does owe the commissions, however, because the FCM's liability to that customer, and hence the money payable to that customer in bankruptcy, must be reduced by the amount of commissions earned, but not yet charged to that customer's account, thereby reducing such customer's claim against assets segregated for customers generally. However, the Division notes that individual customers may permit third party creditors, such as banks, a security interest in amounts owed them by the FCM. Therefore, similar to other third party creditors, a customer may grant its IB a security interest in any funds that may be due such customer from the FCM. In the event of a shortfall in segregated funds, parties holding a security interest in the account of an individual customer would receive no greater interest in segregated funds than that afforded the individual customer who granted the security interest.

5. Commissions Earned by an AP or IB, but Not Paid by the FCM, Must be Reflected as a Liability on the FCM's Financial Reports

Commissions earned by an FCM's AP or IB (that portion of the full commission charged a customer which will be shared by the FCM with the AP or IB), but not yet paid out to the AP or IB by the FCM, must be accrued and reported as a payable to the AP or IB in the FCM's financial reports. This requirement applies whether or not a commission has actually been charged to a customer's account. If a commission has been earned, but not yet charged to a customer's account, the FCM may reflect that accrued commission as an asset (see Page 4-18 of the Instructions to form 1-FR-FCM -- "Accrued Half-Turn Commission"). Where an FCM shares the commission with an IB, the IB will reflect that amount as a receivable from the FCM. Such an amount reflected as a receivable by the IB is classified as either a current

or noncurrent asset depending on how long the receivable has been outstanding and whether the accrued commission is covered by free funds[2] in the customer's account. (See Commission Rule 1.17(c)(2)(ii)(B), 17 C.F.R. § 1.17(c)(2)(ii)(B) (1994)).

* * * *

The statements made in this interpretation are not rules or interpretations of the Commodity Futures Trading Commission, nor are they published as bearing the Commission's approval. Rather, they are interpretations and practices followed by the Division of Trading and Markets in administering the Commodity Exchange Act and the regulations thereunder.

FOR FURTHER INFORMATION CONTACT: Paul H. Bjarnason, Jr., Chief Accountant, or Lawrence B. Patent, Associate Chief Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581.

Issued in Washington, D.C. on _____ by the Division of Trading and Markets.

Andrea M. Corcoran

Director

[TMINT-14.606]

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1 See The Oxford Organisation, Ltd. v. Ronald R. Peterson as Trustee in Bankruptcy for Stotler and Company, No. 91 C 1178 (N.D. Ill. Aug. 18, 1992) where the U.S. District Court for the Northern District of Illinois granted the motion for the trustee in bankruptcy for Stotler, an FCM, for summary judgment against Oxford, an IB of Stotler's, that sought to recover $154,068, plus interest, in unpaid commissions. The court adopted the Commission's view that there is no fiduciary relationship between FCMs and IBs under the CEAct, and that imposing a constructive trust in an IB's favor would, as a policy matter, thwart the priority granted FCM customers under the Bankruptcy Code.

[2] *Free Funds* is the amount by which the net liquidating equity in an account exceeds the initial margin requirement for the positions in that account.

EXHIBIT D

Gerald Miller

From: Todd Maines [tmaines@NFA.Futures.Org]
Sent: Thursday, August 11, 2011 11:03 AM
To: Gerald Miller; rbrooks@farviewinvestments.com
Cc: Jonathan Miller; Patrick Moongthaveephongsa
Subject: Farview - Monthly Filings

Gerry and Rick,

In regards to the April, May, and June 2011 monthly filings. NFA continues to find that the firm is listing certain receivables, mainly floor broker receivables, as current assets when the firm does not collect payment for those receivables within 30 days of earning them. It is acceptable to include these types of receivables as current assets if the firm reasonably expects to receive payment within 30 days; however, if the firm does not typically receive these payments within 30 days and has no reasonable expectation that this will change, the receivable must be listed as non-current.

After reviewing the supporting documentation that has been submitted along with the monthly financial statements, NFA noted the following significant issues, please note that some of these have already been brought to your attention:

April 2011
The firm listed the following receivables as current when payment was not collected within 30 days: Invoices #1083, #1084, #1091, #1092, #1093, #1094, #1096, & #1098. The firm also incorrectly listed the Cash balance as $50,551 instead of the balance listed on the reconciliation of $46,216. The result these reclassifications will decrease the excess net capital from $21,616 to at least $3,618.75.

May 2011
Similar findings were revealed in this filing. Specifically, the misclassified receivables included: Invoices #1103, #1104, #1105, #1191, & 1192. The result of these reclassifications will put the firm under their capital requirement.

July 15, 2011 – Pro-forma
Misclassified receivables included invoices #1103 & #1104. The result will put the firm under their requirements.

July 22, 2011 – Pro-forma
Misclassified receivables included invoices #1106 & #1108. The result will decrease the firm's ENC from $13,275.91 to at least $9,028.72. The firm also included in several invoices for July's services as current assets that the firm has historically had issues collecting within 30 days of being earned.

June 2011
Again similar findings. Invoices #1106, #1108 & #1113 were misclassified as current. The result will leave the firm very thinly capitalized to at least $19.59.

Other questions:

1. Why is there such a large variance with the firm's accounts payable balance month to month; April = $2,578, May = $5,042, and June = $1,238?
2. Why are there no liabilities for salaries, wages, or commissions for the 3 months?

Please re-file the monthly financial statements with the proper classifications and file telegraphic notice where applicable.

NFA expects that Farview properly classify all receivable balances for all future filings.

Regards,
Todd

Todd A. Maines
Manager, Compliance Department
National Futures Association
300 S. Riverside Plaza
Suite 1800
Chicago, IL 60606
Phone (312) 781-1560
Fax (312) 559-3448
Email: tmaines@nfa.futures.org

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EXHIBIT E

Gerald Miller

From: Todd Maines [tmaines@NFA.Futures.Org]
Sent: Monday, July 18, 2011 4:27 PM
To: Gerald Miller
Cc: Patrick Moongthaveephongsa; Toni Rossetti; rbrooks@farviewinvestments.com; Jonathan Miller
Subject: RE: Farview

Gerry,

Toni and I just tried to call and left you a message. As she stated in her voicemail, the instruction guide for FCMs lays out guidance for commissions receivable just as I have previously discussed with you. The guide can be found on our website:

http://www.nfa.futures.org/NFA-compliance/NFA-futures-commission-merchants/fcm-financial-requirements.HTML

Specifically, page 4-16:

Line 13.C. - Commissions and brokerage receivable
Report on this line commissions and brokerage receivable from carrying brokers or dealers dealing in commodities or securities; and management fees from registered investment companies and commodity pools. **If the amount is outstanding longer than 30 days from the date it was earned, it must be reported as a noncurrent asset.** If any such receivable is held back by the other FCM or broker to cover potential losses or as a security deposit, such amount is to be treated as a noncurrent asset even though the receivable was accrued less than 30 days earlier.

Todd A. Maines
Manager, Compliance Department
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From: Gerald Miller [mailto:gmiller@vgmlaw.com]
Sent: Monday, July 18, 2011 12:41 PM
To: Desiree Christman
Cc: Todd Maines; Patrick Moongthaveephongsa; Toni Rossetti; rbrooks@farviewinvestments.com; Jonathan Miller
Subject: Farview

Todd,

I presume Ms. Christman was sending out the letter on your behalf, so I will respond to you.

I presume you received my e-mail from Friday afternoon, July 15, although your e-mail this morning makes no reference to it. Another copy is below. As stated in that e-mail to Patrick and you in response to your e-mails on July 14, we have sent you the backup for the May 31, 2011 statements including copies of invoices bearing a due date which we believe justifies the classification of those invoices as current receivables. We have also cited CFTC rules which support our position. We have also sent you the June bank statement as requested. If you can respond to that e-mail and explain the basis for your e-mail today that Farview is non-compliant, we will be happy to discuss these issues.

Gerry

Gerald Miller
Vanasco, Genelly & Miller
33 North LaSalle Street
Suite 2200
Chicago, Illinois 60602
312-786-5100
312-786-5111(fax)

Patrick,

I am responding to your e-mail of 9:02 am yesterday, as amended by your e-mail of 5:33pm.

Farview is not under its net capital requirement as of May 31, 2011.

Once again, we must take issue with your misinterpretation of the CFTC regulations relating to classification of Comissions receivable. If you actually read the instructions issued by the CFTC for Form 1FR-IB, you will see the following:

> "If the amount is outstanding longer than 30 days from the date it is due, it must be reported as a current asset.

The invoices which Farview listed as current on its May 31 net capital calculation are as follows:

Invoice 1091	$1306.50	Dated 5-24-11	Due 6-23-11
Invoice 1092	$7693.75	Dated 5-24-11	Due 6-23-11
Invoice 1105	$ 968.75	Dated 5-24-11	Due 6-23-11

The due date of these invoices is 6-23-11. As of May 31, the due date had not even been reached; therefore, these were properly shown as current receivables. I might add that payment of all these invoices was received in June prior to the due dates.

While you also refer to Invoices 1103 and 1104 as being misclassified as current in the May 31 calculation, those invoices have due dates of July 15, 2011, which is today, and they need not be reclassified as non-current until August 14.

I invite you to point out any written instructions which refute the clear language of these instructions. I also invite anyone at the NFA with an accounting background to discuss this issue further.

Inasmuch as Farview's net capital, calculated in accordance with the instructions, was in excess of the required net capital, and Farview will be filing its June 30 financials next week.

Gerry

EXHIBIT F

From: rbrooks@farviewinvestments.com [mailto:rbrooks@farviewinvestments.com]
Sent: Monday, May 02, 2011 2:08 PM
To: Gerald Miller
Subject: [FWD: PFGBEST-Updated Payout]

Gerry,

PFG forgot to withhold the 10% from our Feb. 2010 commissions. I called and reminded them. This is the updated report and response from Nicole Donnahue referencing that the hold back was at my request.

rick
-------- Original Message --------
Subject: PFGBEST-Updated Payout
From: "Nicole Donnahue" <ndonnahue@pfgbest.com>
Date: Thu, March 11, 2010 8:11 am
To: <rbrooks@farviewinvestments.com>

Rick,

Please see your updated payout for February. The 10% has been held per your request. If you have any questions, please let me know.

Thanks

Nicole Donnahue, Business Development
311 W. Monroe St., Ste. 1300
Chicago, IL 60606
888-512-6127 | 312-775-3040 fax

EXHIBIT G

Gerald Miller

From: Todd Maines [tmaines@NFA.Futures.Org]
Sent: Friday, April 29, 2011 4:55 PM
To: Gerald Miller
Cc: rbrooks@farviewinvestments.com; Jonathan Miller; Patrick Moongthaveephongsa; Mark Gross
Subject: RE: Farview Investments Inc: Requirement to File Telegraphic Notice

Gerry and Rick,

As a follow up to the below email sent last week on April 21 and the courtesy call that Patrick made to Gerry yesterday, it appears that you are still not taking your regulatory responsibilities seriously and refuse to comply with the rules and regulations for which you are required to follow.

In the below email, and as we discussed and agreed to over the phone on April 25, half of the balance held in the Commission Withholding Account at PFG cannot be classified as a current asset as explicitly dictated by CFTC Financial Interpretation 14. You further acknowledged the fact by immediately transferring the majority of the balance from this account into your operating cash account at Chase.

In the email we had also asked you to amend any filings that may have been affected by this misclassification and were given no indication of any disagreement over this matter until Patrick attempted to discuss and follow up with you yesterday. As you were unwilling to satisfy a previously agreed upon request you left us no choice but to contact PFG and obtain the monthly account statements for the Commission Withholding Account. We then compared the balance in the account to the monthly net capital computations you sent and found that after applying the CFTC requirements that, in addition to the months your firm was already under its capital requirements, it appears that your firm has failed to meet its minimum net capital requirements since March 2010.

Unless you can prove otherwise you must provide amended the monthly net capital computations and file telegraphic notice by **5:00pm Monday, May 2** otherwise NFA will be forced to file on your behalf.

Again you are reminded, not threatened, that NFA Compliance Rule 2-5 requires all NFA Members to cooperate fully and promptly with any NFA audit.

Due to the concerns that we have had and currently have, your firm will be subject to monthly financial reporting. You will be required to submit monthly financial statements similar to how you have been sending them on a semi-annual basis, through easy-file. You will also be required to submit all supporting documentation for the statements to me until we feel that you have you can adequately prepare the filings and prove that you can maintain the minimum capital requirements in order to operate your firm.

Todd A. Maines
Manager, Compliance Department
National Futures Association
300 S. Riverside Plaza
Suite 1800
Chicago, IL 60606
Phone (312) 781-1560
Fax (312) 559-3448
Email: tmaines@nfa.futures.org

EXHIBIT H

Gerald Miller

From: Todd Maines [tmaines@NFA.Futures.Org]
Sent: Monday, May 02, 2011 3:35 PM
To: Gerald Miller
Subject: CFTC's contact information

Gerry,

Here's some contact information that I found on the Commission's website:

http://www.cftc.gov/Contact/index.htm

Todd A. Maines
Manager, Compliance Department
National Futures Association
300 S. Riverside Plaza
Suite 1800
Chicago, IL 60606
Phone (312) 781-1560
Fax (312) 559-3448
Email: tmaines@nfa.futures.org

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EXHIBIT I

Gerald Miller

From: Patrick Moongthaveephongsa [pmoongthaveephongsa@nfa.futures.org]
Sent: Monday, May 16, 2011 5:24 PM
To: Gerald Miller; rbrooks@farviewinvestments.com
Cc: Todd Maines; Jonathan Miller
Subject: RE: NFA Document Request Follow-up

Gerald and Rick,

I wanted to follow up on the progress of the below items. Please let me know if you have questions when drafting the AML audit report or the format for documentation of the AML training.

Additionally, have you been able to reach anyone at the CFTC?

Patrick Moongthaveephongsa
Field Supervisor
National Futures Association
300 S. Riverside Plaza
Suite 1800
Chicago, IL 60606
☎: 312.781.1381
🖷: 312.559.3378

****

From: Gerald Miller [mailto:gmiller@vgmlaw.com]
Sent: Tuesday, May 10, 2011 4:09 PM
To: Patrick Moongthaveephongsa; rbrooks@farviewinvestments.com
Cc: Todd Maines; Jonathan Miller
Subject: RE: NFA Document Request Follow-up

Patrick,

On behalf of Farview Investments, LLC, I have attached the two attestation letters and self-exam checklist which were referred to in Rick Brooks' letter of last week. You will also be receiving shortly a letter regarding the testing of the AML procedures and a revised AML policy deleting National Compliance as the AML auditing agency. Both our firm and Rick Brooks went over the AML procedures on more than one occasion last year. We will provide you with the dates of those reviews, although they were always in the discussion whenever new AP's were brought on and when new customer accounts were opened.

(Todd, I have still been unable to reach anyone at the CFTC's Chicago office. In fact, for over a three hour period today, all I got was a busy signal at the 312-596-0700 number. I will stay on that as well.)

Gerry

EXHIBIT J

Gerald Miller

From: Patrick Moongthaveephongsa [pmoongthaveephongsa@nfa.futures.org]
Sent: Tuesday, May 24, 2011 2:26 PM
To: rbrooks@farviewinvestments.com; Gerald Miller; Jonathan Miller
Cc: Todd Maines
Subject: Farview Audit

Rick and Gerry,

I wanted to recap our meeting with the outstanding requests that we have.

Cash

-Invoice from Kutchins, Robbins, & Diamond Ltd for $11,300 payment made on 12/30/10.

AML

Independent Audit

As previously mentioned, we need more detail in the 2010 audit report that documents the actual testing that was completed so that we can verify that all areas of the AML program have been properly checked.

Sincerely,

Patrick Moongthaveephongsa
Field Supervisor
National Futures Association
300 S. Riverside Plaza
Suite 1800
Chicago, IL 60606
☎: 312.781.1381
🖷: 312.559.3378

****

EXHIBIT K

Gerald Miller

From: Todd Maines [tmaines@NFA.Futures.Org]
Sent: Monday, June 13, 2011 5:18 PM
To: Jonathan Miller; Patrick Moongthaveephongsa
Cc: Gerald Miller; rbrooks@farviewinvestments.com
Subject: RE: revised AML Audit

Jonathan,

On May 24, 2011, we had asked you to provide more detail regarding the actual testing that was completed in the 2010 annual AML audit report so that we can verify that all areas of the AML program have been properly evaluated. However, your revised report that you sent on June 8, 2011 is still lacking the necessary details to substantiate your examination process. Please amend to describe what testing was actually completed and how it was completed. Specifically, we need more of an explanation of what documents were reviewed as part of your audit.

Todd A. Maines
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National Futures Association
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Email: tmaines@nfa.futures.org

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From: Jonathan Miller [mailto:jonmiller@vgmlaw.com]
Sent: Wednesday, June 08, 2011 4:25 PM
To: Patrick Moongthaveephongsa; Todd Maines
Cc: Gerald Miller; rbrooks@farviewinvestments.com
Subject: revised AML Audit

As requested, attached is the revised AML audit. Please contact me with questions.

Jonathan

Jonathan K. Miller
Attorney
Vanasco, Genelly & Miller
33 N. LaSalle St., Suite 2200
Chicago IL 60602

312-786-5100
Fax: 312-786-5111

EXHIBIT L

Jonathan Miller

From: Jonathan Miller
Sent: Thursday, June 30, 2011 2:50 PM
To: 'Todd Maines'; 'Patrick Moongthaveephongsa'
Cc: 'rbrooks@farviewinvestments.com'; Gerald Miller
Subject: Farview Investments, LLC AML Test
Attachments: AML test and review (6-30-11).pdf; Anti-Money Laundering Independent Test (6-11).pdf

Attached is the documentation to support the AML Audit of Farview Investment, LLC.

Jonathan

Jonathan K. Miller
Attorney
Vanasco, Genelly & Miller
33 N. LaSalle St., Suite 2200
Chicago IL 60602
312-786-5100
Fax: 312-786-5111

ANTI-MONEY LAUNDERING INDEPENDENT TEST

FARVIEW INVESTMENTS, LLC

1. INTRODUCTION

1.1 Section 352 of the USA Patriot Act. Section 352 of the USA Patriot Act (the Act) imposes rules requiring certain types of firms in the investment services industry to draft, amend and/or enhance their procedures to accommodate a more stringent and diligent approach to account opening and to implement active and ongoing surveillance of transactions, among other steps, in compliance with anti-money laundering regulations. The rules are intended to help protect the integrity of the financial services marketplace, while strengthening efforts to battle international money laundering and block terrorists' access to US financial and investment markets. Minimally, the regulations require that firms:

1. Establish and implement policies and procedures that can be reasonably expected to detect and cause the reporting of transactions that raise a suspicion of money laundering
2. Establish and implement policies, procedures and internal controls reasonably designed to achieve compliance with the Bank Secrecy Act and regulations thereunder
3. Provide for independent testing for compliance to be conducted by firm personnel or by a qualified outside party
4. Designate an individual or individuals responsible for implementing and monitoring the day-to-day operations and internal controls of the program
5. Provide ongoing training (no less than annually) for certain personnel

1.2 Independent Testing. Each firm subject to the Act must establish a schedule to ensure that it conducts its independent test no less than annually.

Failure to establish and successfully implement adequate compliance systems can expose your firm to significant risks, including regulatory and legal liabilities, and risk to the firm's reputation.

The workbook you are about to complete will be a tool for your use in demonstrating the successful completion of the independent testing requirement. To comply with the Act's guidelines regarding independence, the workbook must be completed by an individual or individuals who are independent of the creation and/or daily implementation or oversight of the firm's anti-money laundering program(s). At the conclusion of the workbook, the person(s) completing the workbook will be asked to attest to such independence.

To maximize the results of completion of the workbook, it is important that you report the true status of the file, procedure or other item you are reviewing.

Noting Findings is a critically important part of this process as Findings help you and your firm to identity areas of potential weakness and/or possible violations. By noting Findings, and then following up with corrective action, you demonstrate a healthy and effective test has taken place.

Note: This AML test must be conducted by someone who is *considered "independent". To be considered independent, the individual conducting the test must meet the following criteria:*

- *Have a working knowledge of applicable requirements under the Bank Secrecy Act and other relevant rules related to anti-money laundering.*
- *Cannot be the AML Compliance Officer.*
- *Cannot perform any of the AML functions that will be tested.*
- *Cannot report to anyone who performs the functions reviewed in the testing process.*

1.3 About this Audit. It is important to note that one size does not fit all in regard to compliance and regulations. Therefore, this workbook will test your firm's general compliance with standards deemed to be acceptable, and will identify certain findings deemed pertinent to the implementation of successful procedures. The workbook may not, however, address each and every aspect of compliance specific to your firm's operation. For this reason, at the end of each section, you may add notes and make comments such as recommended actions. In addition to your independent commentary, we recommend that you list documents that validate your statements, the location(s) of those documents in your office, and the individual(s) in charge of maintenance of the documents, so that when completed, the audit will be a useful tool to provide to regulatory examiners, as well as to your internal personnel.

Remember that the completed workbook including results must be provided to Senior Management for review and implementation of corrective action, if any.

2. POLICIES & PROCEDURES

Section 352 of the USA Patriot Act, requires certain types of firms in the investment services industry to draft, amend and/or enhance their procedures to accommodate a more stringent and diligent approach to account opening and to implement active and ongoing surveillance of transactions, among other steps, in compliance with anti-money laundering regulations. The rules are intended to help protect the integrity of the financial services marketplace, while strengthening efforts to battle international money laundering and block terrorists' access to US financial and investment markets.

These regulations went into effect on April 2002 for many types of firms, including introducing brokers. For other types of firms, such as investment advisers, implementation remains optional, but advisable.

The firm's policies and procedures must be written, and certain content is required. The following section will test the adequacy of your firm's policies and procedures.

2.1 AML Implementation Date. The following questions will test to ensure that procedures are in place, and that you can access the most recent version of the manual.

2.1.1 Has the firm implemented written AML policies and procedures?

__✓__ Yes _____ No _____ N/A

2.1.2 Please enter the date of the most recent version of the firm's AML Policies and Procedures. *04/01/2011*

2.2 Assignment of Anti-Money Laundering Compliance Officer. The firm is required to name an Anti-Money Laundering Compliance Officer ("AML CO"). In so doing, the firm must ensure the following:

1. Individual is specifically named in the written policies and procedures manual
2. A back-up to the AML Compliance Officer is also named, so that no less than one individual is always accessible to personnel for reporting purposes (if possible)

Responses to the following questions will help to document compliance with this aspect of the requirement.

2.2.1 Please enter the name of AML Compliance Officer as identified in the procedures: *Rick Brooks*

2.2.2 Please enter the name of Back-up AML Compliance Officer: *N/A*

2.2.3 Is the AML Compliance Officer noted above actively performing the duties assigned to him/her?

✓ Yes _____ No _____ N/A

2.3 Notification of Anti-Money Laundering Compliance Officer to Personnel. Firm personnel must be apprised of the identity of the AML Compliance Officer, so that any relevant individual may report applicable findings or suspicions. Such notification should include the means through which the AML Compliance Officer(s) may be contacted.

Responses to the questions below will verify that personnel are notified, and what types of contact information is provided (remember, there is an opportunity at the end of this section to elaborate on firm-specific information pertinent to this topic).

2.3.1 Have personnel been notified of the name of AML Compliance Officer?

✓ Yes _____ No

2.3.2 Are personnel provided with an email address for the AML CO?

✓ Yes _____ No _____ N/A

2.3.3 Are personnel provided with a phone number to contact the AML CO?

✓ Yes _____ No _____ N/A

2.4 CTR, CMIR and FBAR Reports. A firm's written procedures must address the requirement to file reports for certain types of transactions including:

- **Currency Transaction Reports (CTR)** - CTRs are flied only for certain transactions involving "currency." "Currency" is defined as "coin and paper money of the United States or of any other country" that is "customarily used and accepted as a medium of exchange in the country of issuance." Currency includes U.S. silver certificates, U.S. notes, Federal Reserve notes, and official foreign bank notes that are customarily used and accepted as a medium of exchange in a foreign country .

- **Currency and Monetary Instrument Transportation Reports (CMIR)** - CMIRs are filed for certain transactions involving "monetary instruments". "Monetary instruments" include the following: currency (defined above); traveler's checks in any form; all negotiable instruments (including personal and business checks, official bank checks, cashier's checks, third-party checks, promissory notes, and money orders) that are either in bearer form, endorsed without restriction, made out to. Fictitious payee, or otherwise in such form that title passes upon delivery; incomplete negotiable instruments that are signed but omit the payee's name; and securities or stock in bearer form or otherwise in such form that title passes upon delivery .

- Foreign Bank and Financial Accounts Reports (FBAR) - FBARs are filed for any financial accounts of more than $10,000 that are held, or for which the firm has signature or other authority over, in a foreign country.

If the firm prohibits transactions requiring these reports, it still must have procedures describing how it prevents the receipt of the particular type of currency or monetary instrument. The procedures must also describe the steps it would take if currency or a monetary instrument was received by the firm.

2.4.1 Do the AML procedures address currency, monetary and foreign financial accounts reporting?

__✓__ Yes _____ No _____ N/A

2.5 Clearing Firm Relationship. The AML procedures should describe how the firm and its clearing firm have arranged to comply with AML requirements including the responsibilities of each. Do the AML procedures disclose the firm's clearing from the relationship?

__✓__ Yes _____ No _____ N/A

2.6 Confidential Reporting. The confidential treatment of reports made under AML requirements is essential. Clients or potential clients whose account application or transaction activity triggers reporting to the AML Compliance Officer must not be aware of the firm's action (or lack of action) related to the report. To ensure that clients do not become informed, many

firms guard the confidentiality of suspicious activity reports at the AML Compliance Officer level. In addition, many firms conduct periodic training to inform employees of the importance of confidentiality in AML suspicious activity reporting.

The firm's written procedures should describe how it ensures that any reported suspicious activity remains confidential.

2.6.1 Do the firm's written AML procedures describe how it will ensure confidentiality of suspicious activity reporting?

__✓__ Yes _____ No _____ N/A

2.7 Additional Areas of Risk. There may be additional areas of particular risk to the firm in the context of Anti-Money Laundering that have not been addressed in this section regarding written procedures. You may answer the question below "YES" if you wish to report any additional areas that are or are not addressed in the firm's written AML procedures.

2.7.1 Are there areas of particular risk to the firm that require additional reporting in the AML procedures?

_____ Yes __✓__ No _____ N/A

2.8 Evidence of Senior Management Approval. There should be written evidence that a senior manager approves the firm's AML program as reasonably designed to achieve and monitor the firm's ongoing compliance applicable regulations. The test taker should verify that evidence exists of a senior manager's approval. This may be found in the senior manager's signature and date on the written AML policies and procedures themselves, an internal memorandum or any other form of evidence that would represent approval of the most recent version of the firm's procedures.

2.8.1 Is written evidence found that a senior manager has approved the firm's AML program?

__✓__ Yes _____ No _____ N/A

2.9 Distribution of Policies and Procedures to Personnel. The means through which a firm distributes the AML policies and procedures should be designed to ensure that each relevant employee/associated person has an opportunity to become familiar with his/her requirements and responsibilities. For instance, information may be distributed verbally in a staff meeting where, perhaps, attendance was recorded, electronically or in writing, or a firm might have a central library where personnel may find and review the policies and procedures. Responses below will identify the means through which the firm distributes its AML Policies and Procedures to new and existing personnel.

2.9.1 Does the firm distribute its AML Policies and Procedures to existing personnel?

✓ Yes _____ No _____ N/A

2.9.2 The firm requires signed acknowledgement from existing personnel at least annually that they have read and/or understand its AML policies and procedures.

✓ Yes _____ No _____ N/A

2.10 Comments for Section 2

2.10.1 Are there additional observations related to the firm's AML policies and procedures that you would like to report?

_____ Yes ✓ No _____ N/A

3. CUSTOMER ID PROGRAMS

On April 30, 2003, the Department of Treasury ("Treasury") issued a final rule to implement Section 326 of the USA PATRIOT Act, requiring firms to implement reasonable procedures to establish Customer Identification Programs (CIP). As a result of the role, firms must draft and implement reasonable procedures to verify the identity of their customers who open new accounts. These procedures must address the types of information the firm will collect from the customer and how it will verify the customer's identity. The firm's CIP must enable it to form a reasonable belief that it knows the true identity of its customers.

In summary, the CIP Rule requires firms to implement customer identification programs that contain these elements:

1. Procedures for verifying the identities of customers
2. Procedures for maintaining records of the verification process
3. Procedures for comparing customers with lists of known or suspected terrorists or terrorist organizations
4. Firms are required to have in place procedures for providing customers with notice that information is being collected to verify their identities

The CIP must be in writing and be part of the firm's anti-money laundering compliance program.

3.1 CIP Implementation. In the following section, you will be asked to verify that the firm has an adequate written Customer ID Program in place.

3.1.1 Do the firm's written AML policies and procedures include a Customer Identification Program (CIP)?

✓ Yes _____ No _____ N/A

3.1.2 Does the firm's CIP provide requirements for the type(s) of documentary evidence that must be collected from clients/investors and potential clients/investors?

✓ Yes _____ No _____ N/A

3.1.3 Does the CIP in place at the firm include procedures for the retention of documentary evidence used for verifying the identity of its clients/investors?

✓ Yes _____ No _____ N/A

3.2 Identity Verification Procedures. Firm are required to have and follow reasonable procedures to verify the identity of their customers who open new accounts. These procedures must address the types of information the firm will collect from the customer and how it will verify the customer's identity. These procedures must enable the firm to form a reasonable belief that it knows the true identity of its customers.

The CIP must be in writing and be part of the firm's anti-money laundering compliance program. Any material changes to the anti-money laundering program need the approval of senior management.

Questions in the following section will test whether or not a firm's procedures adequately address the risk posed by acceptance of certain types of accounts. Although a firm may not accept one or more of these types of accounts, regulatory examiners may require that the policies and procedures demonstrate that the firm has considered each category of account.

3.2.1 Does the firm's CIP include a general assessment of risk based on the types of accounts opened by the firm?

✓ Yes _____ No _____ N/A

3.2.2 Does the CIP note the methods the firm uses in opening accounts (electronic, application, and other means)?

✓ Yes _____ No _____ N/A

3.2.3 When documentary evidence of an account applicant is not available, does the firm's CIP specify certain non-documentary evidence that will be collected (such as contacting the customer or checking references with another financial institution)?

✓ Yes _____ No _____ N/A

3.3 Reliance on Third Parties to Perform Customer Identification. Provided certain circumstances exist; firms may rely on the performance by another financial institution (including an affiliate) for some or all of the elements of its Customer Identification Program with respect to any new or existing customer. If the firm relies on a third party to perform some or all of its CIP, all three of the following conditions must be met:

- Reliance on the third party must be reasonable under the circumstances .
- The other financial institution must be subject to a rule implementing the anti-money laundering compliance program requirements and must be regulated by a Federal functional regulator.
- The other financial institution must enter into a contract with the firm requiring it to certify annually that it has implemented its anti-money laundering program, and that it will perform (or its agent will perform) specified requirements of the customer identification program.

3.3.1 Does the firm rely on a third party financial institution to perform some or all of its Customer Identification Program requirements?

_____Yes _____✓_____ No _____ N/A

3.4 Individual Accounts - Identifying Information. A firm's CIP must contain procedures for opening an account that specify the identifying information that will be obtained from each customer. The minimum identifying information that must be obtained from each customer prior to opening an account includes the following:

- Name
- Date of birth
- Address
- For an individual who does not have a residential or business street address, an Army Post Office ("SPO") or Fleet Post Office ("FPO") or the residential or business street address of next of kin or other contact must be provided

This section will test whether the firm's written CIP includes adequate requirements for certain types of accounts, such as individual accounts. Responses throughout this section should be based on the written procedures themselves.

Later, as part of another segment of this independent test, client files will be reviewed to ensure that the appropriate steps are being carried out.

In this section, "Yes" means the procedures include the requested information; "No" means the information could not be found; and "N/A" means the firm does not open this type of account.

3.4.1 Does the firm's CIP require that each individual customer provide at minimum name, date of birth and street address (or alternative address as noted in the section above)?

_____Yes _____ No _____ N/A

3.5 Non-Individual Accounts - Identifying Information. A firm's CIP must contain procedures for opening non-individual accounts (such as partnerships, corporations and trusts) that specify the identifying information that will be obtained from each such entity. The minimum identifying information that must be obtained for each non-individual customer is a tax identification number, the date that the entity came into existence and a street address.

Remember, in responding throughout this section, "Yes" means that procedures are in place in the firm's CIP; "No" means the procedure cannot be found; and *"N/A"* means that the firm does not open this type of account.

The firm's CIP does require that each corporation, trust or partnership provide at minimum name, date entity came into existence (i.e. date of incorporation) and street address (or alternative address as noted in the section above).

_____✓_____Yes _____ No _____ N/A

3.6 Non-US Persons Accounts - Identifying Information. With respect to non-U.S. persons, the final rules regarding CIP contain some flexibility in the identification number requirement. A firm can choose from a variety of information numbers to accept from a non-U.S. person. Because there is no uniform identification number that non-U.S. persons would be able to provide to the firm, the firm is permitted to determine the specific types of documents or information it will collect and review in identifying its non-US customers. The identifying information the firm does accept must enable the firm to form a reasonable belief that it knows the true identity of any non-US Customer.

3.6.1 Does the firm's CIP list the types of documents and information it will require prior to opening an account for a non-US person?

_____✓_____Yes _____ No _____ N/A

3.7 Verification Procedures for High Risk Accounts. The US Treasury emphasizes that the firm must take additional steps to verify identity in circumstances where normal documentation will not suffice. For instance, certain types of non-individual accounts or foreign accounts, may require heightened scrutiny and additional due diligence by the firm to determine the account's legitimacy.

The following section will address ID requirements for certain types of high-risk accounts. There will be an opportunity at the end of the section to add additional observations regarding high risk accounts the firm accepts that have not been addressed in this section of the workbook.

As for the preceding account-related sections, answer "Yes" if the firm's CIP addresses the type of account; "No" if it does not; or "N/A" if the firm does not open this type of account.

3.7.1 Confidential Accounts. For accounts in which the identity of the customer is deliberately withheld, it is imperative that the records exist within the firm, available to certain limited personnel including but not limited to the AML Compliance Officer, attesting to the actual identity of the individual. Such information should be available upon request of regulatory agencies or as otherwise required by law.

3.7.1.1 Do the firm's Confidential Account procedures require that an individual or individuals with account control or authority present ID prior to account opening?

✓ Yes _____ No _____ N/A

3.7.2 Senior Foreign Government Official Accounts. The firm *must* exert care in opening accounts for senior foreign government or plural officials, and must attempt to detect any event of foreign corruption in such accounts. The scrutiny of these accounts extends to such persons' personal investment corporations or personal holding companies.

The firm's CIP does include special procedures to review Senior Foreign Government Official Accounts.

✓ Yes _____ No _____ N/A

3.7.3 Off-Shore Trusts. For Offshore Trusts, the firm must identify the principal ownership, and cross-reference this information to sources such as the SDN or OFAC Lists. The AML Compliance Officer may determine that additional due diligence is required, especially if the location of the offshore entity and the location of the principal owner causes suspicion.

The firm's CIP does include special procedures to review Off-Shore Trusts.

✓ Yes _____ No _____ N/A

3.7.4 Intermediary Accounts (Hedge Funds, Investment Funds, Investment Accounts). These accounts may require more due diligence in some instances, such as when the investment objective of the account cannot be determined. In other instances, because institutional investors are by their nature more sophisticated, they may require less scrutiny. CIP should specifically state the appropriate degree of due diligence for Intermediary Accounts on a case-by-case basis. The following guidelines might be applied in such cases:

1. Whether the institution/intermediary has its own established procedures for anti-money laundering, is a financial institution, and/or is subject to FATF jurisdiction
2. Whether the institution/intermediary has a long term relationship with the firm
3. Public reputation of the institution/intermediary

4. Whether the institution is from a jurisdiction generally characterized as an offshore banking or secrecy haven, non-cooperative country, or of other suspicions nature

The firm's CIP does include special procedures for the review of intermediary accounts.

✓ Yes _____ No _____ N/A

3.7.5 Foreign Commercial Operating Entities, Private and Correspondent Banks. Under money laundering regulations, firms are prohibited from establishing, maintaining, administering, or managing a "correspondent account" in the United States for an unregulated foreign shell bank.

The firm should have procedures in place to ensure that none are opened and should immediately terminate such accounts if found. Personnel at the firm whose role includes account opening should be notified upon discovery or suspicion that the firm may be maintaining or establishing a "correspondent account" in the United States for a foreign shell bank.

Regulations also requires that special diligence be conducted for all private banking and "correspondent" bank accounts involving foreign persons, even if these accounts had been opened before Congress passed the PATRIOT Act. Correspondent accounts are those established to receive deposits from, make payments on behalf of, or handle other financial transactions for a foreign bank.

3.7.5.3 Are firm personnel with duties involving account opening required to notify an officer of the firm, or the AML CO, upon application by any foreign operating entity, including a bank of any type?

✓ Yes _____ No _____ N/A

3.8 Responses for Not Applicable Account Types. It is possible that the test-taker has indicated *"N/A"* for many of the types of accounts addressed in this section. While the firm may not open these types of accounts, it is important to have in place procedures that will enable the firm to detect if any *"N/A"* account is opened, or attempted to be opened. Adequate procedures would call for supervisory review at one or more levels, training for employees to instruct them on types of accounts that may not be accepted, and reporting requirements for employees to adhere to if approached to open any such type of account, among other procedures that would be effective at the firm.

The firm's procedures have addressed means for ensuring non-allowable accounts are detected at the time of application.

✓ Yes _____ No

3.9 Comments for Section 3.

3.9.1 Are there additional observations related to the firm's CIP that you would like to report?

_____Yes _____✓_____ No

4. SUSPICIOUS PERSONS REVIEW

Under anti-money laundering regulations financial and investment firms are required to reference published lists of known and suspected terrorists for the purpose of verifying that its customers are not found on the list(s). Firms are prohibited from opening accounts for individuals or entities that reside in Specially Designated Nations.

On an ongoing basis, firms are required to check the OFAC (Office of Foreign Assets Control) list to ensure that potential and existing customers are not prohibited persons, or are not entities or persons from embargoed countries or regions.

Among other resources, these lists may be found at:

www·treas.gov/ofac/
www.ibigov/mostwantiterrorists/fugitives.htm

4.1 Suspicious Persons Lists

4.1.1 Upon account application, does the firm search lists to ensure that the applicant is not found on lists of known or suspected suspicious persons?

_____✓_____Yes _____ No _____ N/A

4.1.2 Does the firm, and/or its custodian, provide exception reports or other materials indicating that periodic searches are conducted?

_____✓_____Yes _____ No _____ N/A

4.1.3 Is evidence of the review of its customers/investors vs. publicly available lists of known and suspected terrorists retained among the firm's compliance files and records?

_____✓_____Yes _____ No _____ N/A

4.2 Voluntary Compliance with Section 314. In Section 314 of the Patriot Act, firms are informed that information sharing among certain institutions will better enable the government and financial institutions to guard against money laundering and related terrorist financing mechanisms. To facilitate Section 314, regulations have been passed that allow for firms to enroll in the sharing program offered through FinCEN.

The types of firms that may share information include introducing brokers and other financial institutions. By completing the form 314(b) found on the FinCEN website at www.fincen.gov, the firm commits to participation in the information sharing program. Under the program, the firm receives regular email notifications of suspicious persons, and is required to conduct an immediate search of its customer list for the past 12 months and the preceding 6 months. Any findings resulting from the search must be reported to FinCEN within 2 weeks of the date of receipt of the email. Although participation is voluntary, firms are encouraged to file form 314(b) and to engage in the information sharing process.

4.2.1 Has the firm has filed for 314(b) and does it participate in the FinCEN information sharing program?

_____Yes _____ No ____✓____ N/A

The Firm has elected not to participate in this program until it has relevant information to share.

4.2.2 Does the firm maintain printed or electronic records to document its searches conducted in response to FinCEN Section 314(a) notices?

_____Yes _____ No ____✓____ N/A

4.2.3 Is contact information provided to FinCEN in regard to the firm's 314 participation is up-to-date?

____✓____Yes _____ No _____ N/A

4.3 Comments for Section 4.

4.3.1 Are there additional observations related to the firm's suspicious person review that you would like to report?

_____Yes ____✓____ No _____ N/A

5. SUSPICIOUS TRANSACTIONS AND ACTIVITY REPORTING

The success of the firm's AML program depends heavily on its ability to recognize suspicious activity in opening accounts and identifying potentially suspicious persons, and in ongoing transactions made in its customer accounts.

AML regulations require that firms engage in reporting of any detected suspicious activity through specific channels and using certain forms. To evidence its compliance with the regulations, the firm's record-keeping must be complete.

This section of the workbook will prompt you to review the firm's record-keeping related to account opening and transactions, as well as its reporting of suspicious activity.

5.1 Examples of Suspicious Activity Account Opening. Although not an exhaustive list, the following list includes several red flags that the representative and/or his/her supervisor should be trained to recognize on account opening. Any of the following should be reported to a supervisor according to the firm's AML procedures manual. Such supervisory personnel should then elevate the investigation to the AML Compliance Officer along the lines of command established in the AML procedures.

1. Customer cannot describe a logical or sensible investment objective
2. Customer has a suspicious background or originates from a suspicious area
3. Customer exhibits reluctance at providing pertinent information related to source of investment funds, business background or other information
4. Customer expresses objections to the firm's compliance procedures, restrictions, disclosures or other practices
5. Customer cannot describe in reasonable terms the nature of his/her business or investment experience
6. Customer cannot adequately document appropriate authority for the account

5.2 Account Test. Completion of this section will require that you review documentation for accounts from the firm's client account list, preferably accounts in high risk categories, such as nominee accounts, trust accounts, or other such "red flag" accounts. We suggest that you select a representative sampling of accounts, but require that you review at least 3. For each selected account, you will be prompted to complete a checklist of information.

The objective of this portion of the workbook is that yon test an adequate sampling of accounts so that you will achieve a comfort level with the overall account opening procedures, and/or that you will be able to identify weaknesses that should be reported to senior management, and which may require correction.

5.3 Account Test Workbook Table. It is important to conduct a review of the firm's central files, in order to better ensure that the CIP and other AML procedures are in place, and are evidenced by documents in the files. This section will provide a tool to conduct a file review. To complete this section, at least 3 account files must be reviewed; however you will have the opportunity to test an unlimited sampling. You are encouraged to review several accounts from each category of business in which the firm engages. For example, if the firm's customer base includes individuals, institutions, corporations and other types of accounts, you should review a sampling of each of these files, to ensure that the firm's AML processes cover all applicable business areas.

To enhance the value of this testing strategy, it is recommended that you select from a variety of newly opened accounts and existing accounts, or select among accounts opened by or through different firm systems, For instance, you might select an account opened online, one opened directly by mail or other paper application, and perhaps another opened by branch or other off-premises personnel.

5.3.1 Does the firm open customer accounts? If the answer is "No", you may proceed to the next section.

✓ Yes _____ No _____ N/A

5.3.2 Were the account files reviewed adequately?

✓ Yes _____ No _____ N/A

5.4 Transaction Activity and Records Review. In addition to conducting reviews at the time of account opening, the firm must ensure that it continuously monitors transactions for suspicious activity. This section will facilitate a review of the transaction record-keeping related to detection of suspicious activity, Although examples of suspicious activity are not always clear, personnel at the firm should be alerted to various types of activity that should be reported:

1. Large cash transactions (in excess of$5,000)
2. Transactions that may be structured to fall just below reporting thresholds
3. Wire transfers, journals or cash transactions that have no apparent investment purpose; especially if conducted among countries considered to be tax or bank secrecy havens
4. Account activity is limited to cash and cash equivalents
5. Significant deposit earmarked for investment with subsequent or sudden request for withdrawal
6. Multiple accounts for the same individual, with no apparent reason for separate accounts
7. Customer activity limited to investments often utilized in connection with fraudulent schemes and money laundering, such as "Reg D" stocks, bearer bonds, penny stocks and others
8. Deposit of bearer bonds with immediate subsequent request for liquidation
9. Investment activity not impacted by any consideration of risk, return or other performance
10. Sudden change in activity, especially wire activity, in an account previously not active, and numerous others

To complete this section, you must review no fewer than 3 dates of activity recorded on the firm's transaction blotter(s) or applicable exception reports and record the data in the table below. If you confirm that there was no suspicions or notable activity on those dates, you may enter "NONE" in the appropriate column.

To enhance the effectiveness of your review, be certain to review a good cross-section of transactions. For instance, select among several different days, weeks or months, Or, if the firm maintains separate activity records for its electronic activity versus its traditional transactions, review a sampling of both types of blotters.

5.4.1 Transaction Activity.

Date of Activity	Suspicious Activity	Activity Reported to Supervisor	Additional Comments
1/29/10	No	N/A	None
6/25/10	No	N/A	None
11/1/10	No	N/A	None

5.4.2 Are there any answers in the trade activity review table that require Corrective Actions?

_____Yes _____✓_____No

5.5 SAR-SF Reporting Requirements

Financial institutions are required to file a report of any suspicious transaction relevant to a possible rule violation with FinCEN, a department of the US Treasury. The report must be filed on SAR-SF, a form found on FinCEN's website at www.fincen.gov within 30 calendar days of the date on which the activity was first detected or observed.

A transaction must be reported if it involves assets of $5,000 or more if the firm suspects that it may have been derived from or intended to disguise or hide any illegal activity, if the transaction appears to have been designed to evade any other type of reporting under the Bank Secrecy Act, if it has no business or apparent lawful purpose of the type in which a normal customer of the firm would engage, or if it involves the use of a introducing broker for facilitating criminal activity.

Among the important requirements of SAR-SF filing is:

1. Filing is required if the transaction is conducted or attempted (the transaction does not need to be consummated in order to be reported).
2. The filing process must be confidential.

Record-keeping to verify the firm's compliance with its reporting requirements is essential to the success of its AML program, and will be tested in the following section.

5.6 SAR-SF Review Table. This section of the workbook is designed to assist the firm in testing its SAR-SF filing and record-keeping procedures. To conduct the test, you should access the SAR-SF central files, where records of the reports and a summary log should be found. Using a representative sampling of reports found in the file, provide responses to complete the table found below.

First, to determine whether or not this table is applicable to your firm, complete the following question. If your response is "NO" you may proceed to the next page.

5.6.1 Has the firm made a SAR-SF filing in the past 12 months?

_____Yes _____✓_____ No _____ N/A

5.7 Comments for Section 5

5.7.1 Are there additional observations related to the firm's suspicious transaction review that you would like to report?

_____Yes _____✓_____ No _____ N/A

6. NOTICE TO CUSTOMERS

A firm is required to notify customers that it is requesting information from them to verify their identities. Notice may be provided by a sign in your lobby, through other oral or written notice, or, for accounts opened online, notice posted on the firm's website. No matter which methods of giving notice a firm selects, it must give it before an account is opened or trading authority is granted.

6.1 Does the firm give notice to its customers regarding requesting information from them to verify their identities?

_____✓_____Yes _____ No _____ N/A

6.2 Describe how this notice is given to customers:

The Firm includes this notice in client account forms.

7. TRAINING OF OPERATIONS, MANAGEMENT AND SALES PERSONNEL

Inherent to the Success of the firm's AML program are its efforts to train personnel regarding detection, reporting, record-keeping, and other facets of the implementation that apply to them.

Firms are required to present Anti-Money Laundering training no less than annually.

7.1 Training Review

7.1.1 Indicate below whether or not the firm has conducted training within the prior 12 months.

_____✓_____Yes _____ No _____ N/A

7.1.2 Enter the date of most recent firm training. *AML Training was conducted in 2010 informally by Rick Brooks and Ben Mancha. See attached memorandums.*

7.1.3 Records are found to verify that all personnel associated with the firm have completed the required training.

✓ Yes _____ No _____ N/A

7.2 Comments for Section 6

7.2.1 Are there additional observations related to the firm's AML training that you would like to report?

_____ Yes ✓ No _____ N/A

8. VERIFICATION OF INDEPENDENCE OF REVIEW

Rule 3011 as amended requires certain standards for the independence of the individual completing this Independent Test.

Such verification shall be demonstrated by completion of the following questions:

8.1 Does the individual who performed the independent test have an adequate degree of general knowledge regarding the Bank Secrecy Act and other relevant rules and regulations.

✓ Yes _____ No _____ N/A

Vanasco Genelly & Mille performed this test.

8.2 Is the individual performing this test the AML compliance person as designated in Company's AML Procedures as the AML CO?

_____ Yes ✓ No _____ N/A

8.3 Is the individual who performed this test a participant or otherwise responsible for any of the AML functions that were tested?

_____ Yes ✓ No _____ N/A

8.4 Does the individual who performed this test report to anyone who performs the functions reviewed in the testing process?

_____ Yes ✓ No _____ N/A

By signing below, I verify the accuracy and completeness of my responses to the questions above On this screen, that I am the individual who has performed the test reported in this workbook, and that I have presented or will present this workbook to a Senior Manager of the firm.

8.5 Signature: Vanasco Genelly & Miller

Vanasco Genelly & Miller

8.6 Date: 6/23/2011

9. CLOSE OUT PROCEDURES

You have now completed the workbook phase of the independent testing requirement. To complete this Audit, please follow the steps below:

Step 1: Completion Check
Each question must be answered before you can complete this audit. Also, before your sign the final workbook, please ensure that you are satisfied with the accuracy and completeness of your responses, and that you have responded to every question.

Step 2: Senior Management ,Review and Acknowledgement
Please Note: The printed copy of the workbook report requires a signature of acknowledgement from Senior Management. This should include, at minimum, the firm's President/CEO and AML Compliance Officer, but may also include other key personnel.

Step 3: Take Corrective Action
Testing is the first step in addressing this regulatory requirement, but to complete the process, you must endeavor to take appropriate steps to correct, or otherwise address, each finding. Your efforts in this regard should be documented in the firm's central file.

10. SENIOR MANAGER ATTESTATION OF COMPLIANCE

By signing below, a senior officer of the firm hereby acknowledges receipt of the completed Annual Independent Test and accepts an undertaking to address any issues reported herein that may require corrective action.

Signature:

Print Name and Title: *Rick Brooks, Manager*

Date of Review: *06/23/2011*

FINDINGS SUMMARY

The Firm's AML Procedures and records are adequate. We suggest all AML documents and records be maintained in a central area of the office.

FARVIEW INVESTMENTS, LLC
141 W. Jackson Boulevard, Suite 1502
Chicago, Illinois 60604
(312) 461-1919

MEMORANDUM

TO: AML Program File

FROM: Rick E. Brooks, Manager

DATE: May 16, 2011

SUBJECT: Informal AML Training

Farview Investments, LLC (the "Company") has completed its 2010 AML Program training on an informal basis. Ben Mancha and I have a weekly meeting on Tuesday at approximately 2:00 p.m. to discuss Company business issues, including implementing the Company's AML Program and training.

During this weekly meeting we discuss any problems or concerns regarding the AML Program and training that have occurred during the previous week. We review the documentation requirements for new accounts, as needed, and evaluate our ongoing monitoring for suspicious behavior in current accounts.

Ben and I are primarily responsible for implementing the Company's AML Program. We both train the APs of the Company, which there is currently one, informally throughout the year as needed. All APs of the Company are familiar with the AML Program, they are given a copy of the AML Program and are informed of any changes or new concerns in a timely manner.

FARVIEW INVESTMENTS, LLC
141 W. Jackson Boulevard, Suite 1502
Chicago, Illinois 60604
(312) 461-1919

MEMORANDUM

TO: AML Program File

FROM: Ben Mancha

DATE: May 13, 2011

SUBJECT: Informal AML Training

On a weekly basis I meet with Rick Brooks to discuss Farview's current business issues. A portion of this meeting is dedicated to the AML Compliance Program and training. We discuss monitoring our current accounts for suspicious behavior and the documentation required to open new accounts. I train Farview's AP, Rick Kaskel, informally on an ongoing basis.

Richard Kaskel

VANASCO GENELLY & MILLER

A Partnership of Professional Corporations

33 North LaSalle Street
Suite 2200
Chicago, Illinois 60602
312.786.5100
Facsimile 312.786.5111

June 30, 2011

Rick E. Brooks
Manager
Farview Investments, LLC
141 W. Jackson Boulevard, Suite 1502
Chicago, Illinois 60604

Re: Farview Investments, LLC, Anti-Money Laundering Compliance Program Test and Review for 2010

Dear Rick:

Farview Investments, LLC (the "Company") has requested that we conduct its independent Anti-Money Laundering Compliance Program ("AML Program") test and review to comply with NFA Rule 2-9 for the calendar year 2010. We have conducted this AML Program test and review based on and tailored to the Company's type of business, size and complexity of the Company's operations, breadth and scope of its customer base and the number of its employees and resources. Listed below are our conclusions after conducting the independent test and review of the Company's AML Program.

1. As part of our test and review of the Company's AML Program, we have reviewed all of the website links and telephone numbers listed in the Company's AML Program to confirm that they are still active. The following website links and telephone numbers were incorrect and the AML Program should be revised as follows:

   (a) Page 5, delete the current website address http://www.treas.gov/offices/eotffc/ofac/hotline.html and replace it with http://www.treasury.gov/about/organizational-structure/offices/terrorism-fin-intel/pages/officeofforeignassetscontrolhotline.aspx

   (b) Page 18, delete the telephone number (1-312-431-1333) in the last line of the first paragraph and replace it with (1-312-421-6700).

   (c) Page 21, delete the current website address http://www.fincen.gov/f9022-1.pdf in subparagraph (b) and replace it with http://www.fincen.gov/forms/files/f9022-1_fbar.pdf.

2. We have spoken with Rick Brooks and Ben Mancha several times throughout the year to discuss and review issues that have arisen regarding the AML Program. Due to the small number of APs and the limited number of customer accounts the Company's AML training for 2010 was conducted on an informal basis. Rick Brooks and Ben Mancha have conducted the informal AML training during a weekly meeting to discuss all Company business. A copy of the AML Program was made available to all APs and they were given the opportunity to ask questions.

3. We recommend that all principals and APs of the Company view the Webinar on the NFA website entitled, Anti-Money Laundering Web Seminar for the Company's 2011 AML Program training and continued informal AML training throughout the year. The Webinar can be found at the NFA's website, www.nfa-futures.org. When on the NFA homepage click "Compliance," then "Education and Training," then "Webinars."

4. We conducted an on-site review of the Company's AML process and documents. The Company's AML Program was tested by completed the attached Anti-Money Laundering Independent Test document.

5. After our on-site review, we determined that the Company's AML procedure and documents were adequate for the Company's size, operations and scope of customer base.

6. Our recommendation, for the Company to continue to improve its AML compliance, is for the Company to centralize its AML documents and procedures to one location at its office. We believe it would be more efficient for the Company to maintain two or three main AML files with several subfiles to organize its AML documents in one location. We have enclosed three redwell files and subfiles to help the Company organize its AML records.

7. AML files and subfiles include:

AML VOL. I
(1) Current AML Policy
(2) Previous AML Policies
(3) Employee Acknowledgment
(4) Audit 2009 – AML Policy
(5) Audit 2010 – AML Policy
(6) Audit 2011 – AML Policy
(7) Audit 2012 – AML Policy
(8) AML Training – 2010

(9) AML Training – 2011
(10) AML Training – 2012
(11) AML Information Sharing
(12) AML Monitoring Suspicious Behavior

AML VOL. II
(1) A – E Current Customers
(2) F – J Current Customers
(3) P – S Current Customers
(4) T – Z Current Customers

AML VOL. III
(1) A – E Previous Customers
(2) F – J Previous Customers
(3) P – S Previous Customers
(4) T – Z Previous Customers

If you have any questions, please call.

Very truly yours,

Vanasco Genelly & Miller

VANASCO GENELLY & MILLER

VGM/jmb