

FILED

SEP 11 2013

NATIONAL FUTURES ASSOCIATION
LEGAL DOCKETING

NFA Case No. 13-BCC-017

and

Respondents.

Having reviewed the investigative report submitted by the Compliance Department of National Futures Association (“NFA”), and having found reason to believe that NFA Compliance Rules (“NFA Requirements”) are being, have been, or are about to be violated and that the matter should be adjudicated, NFA’s Business Conduct Committee issues this Complaint against Ace Investments Strategists LLC (“Ace”) and Yu Dee Chang (“Chang”).

JURISDICTION

1. At all times relevant to this Complaint, Ace was a commodity trading advisor ("CTA") NFA Member. As such, Ace was and is required to comply with NFA Requirements and is subject to disciplinary proceedings for violations thereof.
2. At all times relevant to this Complaint, Chang was a principal and an associated person ("AP") of Ace and an Associate of NFA. As such, Chang was and is required to comply with NFA Requirements and is subject to disciplinary

proceedings for violations thereof. Ace is liable for violations of NFA Requirements committed by Chang during the course of his activities on behalf of Ace.

BACKGROUND

3. Ace is located in Vienna, Virginia and has been a Member of NFA since May 2003. Chang is the sole owner and president of Ace and the controlling influence at the firm. Chang is also registered as an AP and is a listed principal of Ace and is an NFA Associate. In addition to Ace, Chang is currently the president and an AP of Chesapeake Investment Services, Inc. ("Chesapeake"), a guaranteed introducing broker ("GIB") which shares office space with Ace. Chesapeake has been guaranteed by Vision Financial Markets LLC ("Vision"), an NFA Member futures commission merchant ("FCM"), since August 1997 and is among Vision's largest GIBs.
4. NFA began an exam of Ace on September 12, 2011. At the time of the exam, Ace had fourteen different managed account programs with more than 1,600 customers and a total of \$89 million under management. Although Ace manages customer accounts that are carried by several FCMs, the vast majority of its managed accounts are carried by Vision. In fact, Vision promotes Ace on its website as one of its recommended CTAs. Although Ace does not require it, its customers are encouraged to open their managed accounts at Vision. As a result, a substantial percentage of Ace's managed accounts (447 at the time of NFA's exam) are introduced to Vision by Chang's IB firm, Chesapeake. Many of Ace's other managed accounts are introduced to Vision by other Vision GIBs. Overall, Vision carried approximately 90% of Ace's managed accounts at the time of NFA's exam.

5. In connection with its numerous managed account programs, Ace maintained a governing account at Vision which served as a holding account for bunched orders (i.e., discretionary orders that include the trades of multiple customers) executed for Ace's managed account programs between October 2008 and September 12, 2011.
6. Many of the bunched orders that Ace placed for their managed account customers resulted in split fills (i.e., the trades within the bunched order were filled at different prices). When a split fill occurred, if the exchange which executed the bunched order used an Average Price System (as described, below), then the Average Price System would determine the "average price" to be allocated to customers who participated in the bunched order.
7. In calculating the average price for split fills, the exchange – in accordance with its "Average Price System" – would calculate the average price of the trades in the bunched order; then round the average price to the nearest price increment at which the contract in question traded on the exchange. For example, if the contract involved in the bunched order traded on the exchange in minimum price increments of \$.05, and the average price on a split fill was calculated to be a price that fell between the minimum price increments (e.g., \$1.98), then that average price would be rounded up or down to the nearest \$.05 price increment depending if the bunched order involved buy or sell orders. Thus, a buy order with an average price of \$1.98 would be rounded up to \$2.00 and a sell order with an average price of \$1.98 would be rounded down to \$1.95. After

- determining the rounded average price, the exchange would communicate the average price or, where appropriate, the rounded average price to Vision.
8. Because of the rounding process, there were resulting cash residuals (i.e., the difference between the actual average price and the rounded average price). In the above example, the cash residual would be \$.02 for buy orders (the difference between the actual average price of \$1.98 and the rounded average price of \$2.00), and the cash residual for sell orders would be \$.03 (the difference between the actual average price of \$1.98 and the rounded average price of \$1.95). These cash residuals belonged to the customers who participated in the bunched order that resulted in the residuals.
 9. In this case, instead of using the average price calculated by the exchange, Ace would, itself, calculate the average price for split fills, purportedly based on fill information they received from the executing broker. Ace would then report the average prices, which it had calculated, to Vision which would report the prices to customers on their account activity statements.
 10. The cash residuals resulting from a split fill were required to be allocated, in a timely fashion, among the customer accounts which participated in the bunched order that generated the cash residuals. However, Ace did not handle the cash residuals in this manner.
 11. Instead of contemporaneously distributing cash residuals to the participants in a bunched trade, on a trade by trade basis, Ace let residuals accumulate in the governing account for extended periods that sometimes lasted several months. Ultimately, on an apparently random day, Ace would instruct Vision to distribute

some or all of the accumulated residuals – not to the participants who participated in the bunched order that produced the residuals but, instead – to the participants in a bunched order that was executed the previous day. This haphazard and irrational method of allocating residuals allowed customers who had not participated in the earlier bunched order that generated the cash residuals to nevertheless receive such residuals if they were included in the bunched trade from the previous day. At the same time, customers who participated in the earlier bunched order which generated the residuals would not receive the residuals to which they were entitled if they were not included in the previous day's bunched order.

12. Not only did Ace improperly allocate the residuals that they distributed to customers but they also failed to make any allocation at all of approximately \$1.6 million of residuals held in the governing account.
13. In addition to Ace's practice of retaining residuals in the governing account for extended periods and then improperly allocating some of the residuals, while permanently retaining others, there were other – equally, if not more, serious – irregularities involving the governing account. As alleged above, Ace would report trade prices to Vision for bunched orders and, often, these prices were different from the trade prices reported by the exchanges. The next day, Vision would reconcile these different prices by crediting or debiting the governing account the amount of the price difference between the trade prices reported by Ace and the prices reported by the exchanges. (Such credits and debits are hereinafter referred to as "trade breaks".) During the life of the governing

account, these trade breaks resulted in a net credit of almost \$463,000 to the governing account. However, Ace never distributed the net trade break credit to customers – to whom it belonged – but retained it in the governing account and, over time, misappropriated it for its own use.

14. The misappropriation of the net trade break credit – as well as the unallocated cash residuals – was the result of Ace using the governing account as an error account to resolve error trades and, in some instances, as a proprietary account in which Ace placed what amounted to proprietary trades. Due to such activity, Ace dissipated approximately \$2.1 million of the net trade break credit and unallocated residuals in the governing account – which rightfully belonged to customers – by improperly using these assets to cover losses incurred by the error and proprietary trades Ace had placed in the governing account.
15. In addition to everything else, on several occasions, Ace also included in bunched orders non-discretionary, customer directed, trades for customer accounts introduced by its affiliated IB, Chesapeake, which accounts Ace had no authority to trade. Specifically, on at least four occasions, the accounts of non-discretionary customers of Chesapeake were improperly included in the same bunched order as the accounts of Ace's managed account customers.
16. NFA's exam also found that Ace's presentation of performance information in its Disclosure Document for its Diversified Commodity Program was misleading. The Disclosure Document presented the performance of all managed accounts in the Diversified Commodity Program in a single performance capsule. However, there were material differences in the performance of small, medium and large

accounts in the Diversified Commodity Program and, as such, the performance of these different accounts should not have been presented in the same performance capsule. NFA's exam further noted similar issues in the presentation of performance for at least one other of Ace's trading programs.

17. NFA's exam findings, considered together, evidence a serious failure on the part of Ace and Chang to adequately supervise Ace's operations – both internally and in its dealings with Vision – to ensure compliance with NFA Requirements.

APPLICABLE RULES

18. NFA Compliance Rule 2-2(h) provides that no Member or Associate shall embezzle, steal, purloin or knowingly convert any money, securities or other property received from or accruing to a customer, client or pool participant in or in connection with commodity futures contracts.
19. NFA Compliance Rule 2-4 provides that Members and Associates shall observe high standards of commercial honor and just and equitable principles of trade in the conduct of their commodity futures business.
20. 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.
21. NFA Compliance Rule 2-13(a) provides, in pertinent part, that any Member who violates any of Commodity Futures Trading Commission ("CFTC") Regulations 4.1, 4.7, 4.12 and 4.16 through 4.41 shall be deemed to have violated an NFA requirement.

22. 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.

COUNT I

VIOLATION OF NFA COMPLIANCE RULE 2-2(h): CONVERTING CUSTOMERS' PROPERTY.

23. The allegations contained in paragraphs 1, 3 through 14 and 18 are realleged as paragraph 23.
24. Between October 2008 and September 12, 2011, Ace's governing account at Vision was credited with \$3.1 million in residuals and approximately \$500,000 in a net trade break credit. However, only \$1.5 million of the combined \$3.6 million in residuals and the net trade break credit was ever distributed to Ace's customers and the remaining \$2.1 million was dissipated as a result of losses incurred by error and proprietary trades that Ace placed in the governing account.
25. Although Ace maintained an error account at Vision at the same time that the governing account was open, it was virtually never used. Instead, Ace used the governing account as if it were an error account to offset positions, and allow other positions to expire worthless. The following are examples of trades that were made in error and should have been moved to Ace's error account but instead were offset at a loss in Ace's governing account:
- On July 5, 2011, Ace purchased 311 July 11 S&P put options with a strike price of 1260. Three of these contracts remained in the

governing account and on the following day were offset for a net loss of \$337.50.

- On July 6, 2011, Ace sold 191 July 2011 S&P end of month call options with a strike price of 1235. Nineteen of these contracts remained in the governing account and were offset the same day for a net loss of \$1,900.
- On June 30, 2011, a day trade was placed in the governing account selling and buying 305 July 2011 S&P call options with a strike price of 1230. This trade resulted in a net loss of \$7,625 to the governing account.
- On August 2, 2011, a day trade was placed in the governing account selling and buying 5 October NY Crude Oil call options with a strike price of 110. This trade resulted in a net loss of \$600 to the governing account.

All of the above losses – which should have been borne by Ace – were covered, instead, by the unallocated residuals and the net trade break credit in the governing account. As the unallocated residuals and net trade break credit were the property of customers, their use by Ace to cover the above losses constituted conversion of customers' property by Ace.

26. Ace also let trades remain in the governing account – instead of moving them to Ace's error account – until such trades expired worthless. The following are examples of some of the trades which expired worthless in the governing account:

- On August 9, 2011, 5 August 2011 S&P call options with a strike of 1275 were purchased at a cost of \$973.85. These contracts were left in the governing account until they expired worthless on August 22, 2011.
- On June 27, 2011, 1 June 2011 S&P end of month put option with a strike of 1185 was purchased at a cost of \$119.77. This option was left in the governing account and expired worthless on June 30, 2011.

- On June 29, 2011, 4 June 2011 S&P end of month call options with a strike of 1315 were purchased at a cost of \$679.08. This trade expired worthless on June 30, 2011.

All of the above losses, which resulted from trades that expired worthless, should have been borne by Ace. Instead, Ace used the unallocated residuals and the net trade break credit in the governing account – which belonged to customers – to cover these losses. This constituted a further conversion of customers' property by Ace.

27. There were also instances when Ace used the governing account to place trades that were in effect proprietary trades and many of these trades also experienced losses. In these instances, Ace would specifically instruct Vision to allocate part of a bunched order to individual customers and part to the governing account, which was maintained in Ace's name. Thus, these trades, which were allocated directly to the governing account, were for all intents and purposes proprietary trades of Ace. Following are some examples where Ace engaged in what amounted to proprietary trading in the governing account:

- On July 7, 2011, Ace provided Vision with allocation instructions for a trade involving the purchase of 418 July 2011 S&P put options with a strike price of 1210. The allocation instructions listed one of the 418 contracts to be allocated directly to the governing account. That one contract was later sold for a loss to the governing account of \$87.50.
- On July 7, 2011, Ace provided Vision with allocation instructions for a trade involving the purchase of 52 July 2011 S&P put options with a strike price of 1200. The allocation instructions called for four of the contracts to be allocated directly to the governing account. These four contracts were sold for a loss to the governing account of \$400 on July 13, 2011.

As was the case with the error trades, the losses from the proprietary trades should have been borne by Ace but, instead, were covered by the unallocated residuals and the net trade break credit in the governing account. As these assets were the property of customers, it constituted conversion on the part of Ace when it used them to cover the losses on the above proprietary trades.

28. By reason of the foregoing acts and omissions, Ace is charged with violations of NFA Compliance Rule 2-2(h).

COUNT II

VIOLATION OF NFA COMPLIANCE RULE 2-4: FAILING TO OBSERVE HIGH STANDARDS OF COMMERCIAL HONOR AND JUST AND EQUITABLE PRINCIPLES OF TRADE.

29. The allegations contained in paragraphs 1, 3 through 15, and 19 are realleged as paragraph 29.
30. Due to Ace's dissipation of \$2.1 million in customer funds from Ace's governing account at Vision, as alleged in Count I, Ace's customers received only \$1.5 million of the \$3.6 million that had been credited to the governing account due to residuals and the net trade break credit.
31. As previously alleged, most of the cash residuals that were accumulated in the governing account before being randomly distributed to customers were generated by previous bunched orders, some of which occurred months earlier. Yet, Ace made no attempt to ensure that all of the participants in those earlier bunched trades received their rightful share of the cash residuals when they were finally distributed. The untimely and sporadic manner in which residuals were allocated is underscored by the fact that – although Ace's managed account programs traded frequently – there were only two days during 2011 when any

meaningful distributions of residuals were made and only 23 days, during the entire three years that Ace's governing account was in existence, when substantial distributions of residuals were made.

32. Ace's method of distributing residuals in its governing account was neither fair nor equitable. As described earlier, some residual credits were owed to accounts that had already closed and those closed accounts never received their rightful share of the residuals that were distributed. Other accounts that were not yet open at the time that the residuals were generated were nevertheless allocated residuals because they happened to participate in the trade that Ace arbitrarily chose to determine who would receive a residual distribution. In addition, open accounts that had participated in earlier bunched trades, which resulted in residuals – but who were not included in the trade that Ace arbitrarily selected for purposes of deciding who would receive a share of the residuals – received no share of the accumulated residual payout. Further, no attempt was made by Ace to accurately calculate the percentage of the accumulated residuals that should be paid to customers.
33. Moreover, a number of accounts that received residuals from Ace's governing account were not even managed accounts of Ace. For example, a residual allocation made on September 12, 2011 included 37 accounts that were, in fact, non-discretionary customer accounts introduced to Vision by Ace's affiliated IB, Chesapeake. In addition, five accounts that received a residual allocation in July 2011 were also non-discretionary Chesapeake customer accounts.

34. As a CTA, Ace had a fiduciary relationship with its managed account customers and, thus, had an affirmative duty to protect and preserve the assets of its customers.
35. However, Ace breached its fiduciary duty to protect and preserve the assets of its customers, and also breached its obligation as an NFA Member to uphold high standards of commercial honor and just and equitable principles of trade. This is evident from the following acts and omissions by Ace:
- Ace failed to distribute residuals to customers in a timely fashion, and, instead, waited to distribute these residuals until after they had accumulated in the governing account for extended periods. This practice persisted for approximately three years.
 - Ace randomly instructed Vision to distribute accumulated residuals – not to the participants in the bunched orders that produced the residuals but – to the participants in a bunched trade that was executed the previous day. This haphazard method of allocating residuals allowed customers who had not participated in the earlier bunched order, which had generated the cash residuals, to nevertheless receive such residuals if they were included in the bunched trade from the previous day. At the same time, customers who participated in the earlier bunched order, which generated the residuals, would not receive the residuals to which they were entitled if they were not included in the previous day's bunched order.
 - As previously alleged, Ace also used the governing account as a de facto error and proprietary account. As a result of this practice, approximately \$2.1 million of unallocated residuals and the net trade break credit were dissipated and converted by Ace, which used them to cover losses incurred by Ace's error trades and proprietary trades in the governing account – which losses should have been borne by Ace.
36. By reason of the foregoing acts and omissions, Ace is charged with violations of NFA Compliance Rule 2-4.

COUNT III

VIOLATION OF NFA COMPLIANCE RULE 2-13(a): PRESENTING THE PERFORMANCE OF ACCOUNTS – WHOSE PERFORMANCE DIFFERED MATERIALLY – IN THE SAME COMPOSITE PERFORMANCE CAPSULE.

37. The allegations contained in paragraphs 1, 16 and 21 are realleged as paragraph 37.
38. Under NFA Requirements and CFTC Regulation 4.35, firms are allowed to present rates of return for all accounts trading pursuant to the same trading program on a composite basis so long as the accounts do not differ materially with regard to their rates of return.
39. Although Ace presented what purported to be the trading results for the Diversified Commodity Program as a single monthly figure, in reality, the returns for the accounts trading pursuant to the Diversified Commodity Program differed depending on the equity level of the accounts. Thus, accounts of less than \$45,000, accounts between \$45,000 and \$100,000, and accounts greater than \$100,000, experienced material differences in their monthly performance.
40. NFA tested the performance – over a seven-month period – of a sample of accounts in the Diversified Commodity Program which had different equity levels. Of the seven months tested, there were four months (March, May, July, and August 2011) in which there were material differences between the rates of return, as presented in the Disclosure Document, and the actual rates of return achieved by accounts that had a beginning net asset value ("BNAV") of less than \$45,000. In addition, there were two months (June 2010 and May 2011) in which there were material differences between the rates of return, as presented in the

Disclosure Document, and the rates of return actually achieved by accounts with a BNAV greater than \$100,000.

41. Therefore, NFA required Ace to undertake a full review of the performance presented in its December 31, 2010 Disclosure Document for all of its trading programs for the entire period reflected in the Disclosure Document, i.e., January 2006 through December 2010. After conducting such review, Ace reported to NFA that it had also identified material differences in the performance of different sized accounts trading pursuant to Ace's Diversified Premium Collection Program and that program's performance as presented in the Disclosure Document.
42. By reason of the foregoing acts and omissions, Ace is charged with violations of NFA Compliance Rule 2-13(a).

COUNT IV

VIOLATION OF NFA COMPLIANCE RULE 2-10: FAILING TO MAINTAIN REQUIRED BOOKS AND RECORDS.

43. The allegations contained in paragraphs 1 and 20 are realleged as paragraph 43.
44. NFA Interpretive Notice 9029 requires a CTA to review its trading programs at least once a quarter to ensure that the allocation methods it used for its trading programs has been fair and equitable.
45. NFA requested records of the reviews Ace conducted concerning its allocation methods but Ace told NFA that it did not keep records of those reviews.
46. NFA examiners also requested Ace to produce e-mails that it sent to its executing brokers that included allocation instructions for certain orders placed in 2011. Ace was unable to produce any e-mails or other correspondence for such

orders. In addition, Ace was unable to produce corresponding order tickets or instructions used to allocate trades for a number of orders placed in the firm's governing account during June through August 2011.

47. In addition, Ace was unable to produce complete and accurate records regarding the way in which it allocated residuals to customer accounts. Moreover, when NFA requested information from Ace on the specific fill prices it used to calculate the average prices that it provided to Vision for split fills, Ace was unable to provide this information for at least five trades. As a result, NFA was unable to determine if Ace had calculated the average price for those trades correctly.
48. By reason of the foregoing acts and omissions, Ace is charged with violations of NFA Compliance Rule 2-10.

COUNT V

VIOLATION OF NFA COMPLIANCE RULE 2-9(a): FAILING TO SUPERVISE.

49. The allegations contained in paragraphs 1 through 17 and 22 are realleged as paragraph 49.
50. Chang is Ace's sole owner and president, and the controlling influence at the firm. As such, Chang is responsible for supervising the day-to-day operations of the firm. However, neither Chang nor Ace met their obligation to diligently supervise Ace's operations, generally, and the handling of Ace's governing account at Vision, specifically.
51. For example, Ace and Chang failed to supervise and monitor the way in which the funds in the governing account were handled and, as a result, approximately \$2.1 million in the governing account – which was attributable to the net trade

break credit and unallocated residuals that rightfully belonged to customers – was dissipated. Further, \$1.5 million of residuals – which were distributed to customers from the governing account – were improperly allocated in a haphazard fashion with the result that some customers were overpaid, some were underpaid and some, who were entitled to receive a share of the residuals, received nothing at all.

52. Ace and Chang also failed to supervise and monitor the presentation of performance information in Ace's Disclosure Document to ensure that such performance information was accurate and did not mislead prospective investors.
53. Ace and Chang also failed to supervise and monitor the firm's preparation and maintenance of required books and records with the result that Ace failed to maintain records of the reviews it conducted concerning its allocation methods; copies of e-mails and correspondence it sent to executing brokers in 2011 that included allocation instructions; order tickets and allocation instructions it used to allocate trades for orders placed in the governing account between June and August 2011; and records of specific fill prices it used to calculate the average prices that it provided to Vision for certain split fills.
54. The foregoing acts and omissions demonstrate a serious failure on the part of Ace and Chang to adequately supervise and monitor Ace's operations to ensure that they complied with NFA Requirements.
55. By reason of the foregoing acts and omissions, Ace and Chang are charged with violations of NFA Compliance Rule 2-9(a).

PROCEDURAL REQUIREMENTS

ANSWER

You must file a written Answer to the Complaint with NFA within thirty (30) days of the date of the Complaint. The Answer shall respond to each allegation in the Complaint by admitting, denying or averring that you lack sufficient knowledge or information to admit or deny the allegation. An averment of insufficient knowledge or information may only be made after a diligent effort has been made to ascertain the relevant facts and shall be deemed to be a denial of the pertinent allegation.

NFA staff is authorized to grant reasonable extensions of time in which an Answer may be filed as it deems appropriate.

The place for filing an Answer shall be:

National Futures Association
300 South Riverside Plaza
Suite 1800
Chicago, Illinois 60606
Attn: Legal Department-Docketing

E-Mail: Docketing@nfa.futures.org
Facsimile: 312-781-1672

Failure to file an Answer as provided above shall be deemed an admission of the facts and legal conclusions contained in the Complaint. Failure to respond to any allegation shall be deemed an admission of that allegation. Failure to file an Answer as provided above shall be deemed a waiver of hearing.

POTENTIAL PENALTIES, DISQUALIFICATION AND INELIGIBILITY

At the conclusion of the proceedings conducted as a result of or in connection with the issuance of this Complaint, NFA may impose one or more of the

following penalties:

- (a) expulsion or suspension for a specified period from NFA membership;
- (b) bar or suspension for a specified period from association with an NFA Member;
- (c) censure or reprimand;
- (d) a monetary fine not to exceed \$250,000 for each violation found; and
- (e) order to cease and desist or any other fitting penalty or remedial action not inconsistent with these penalties.

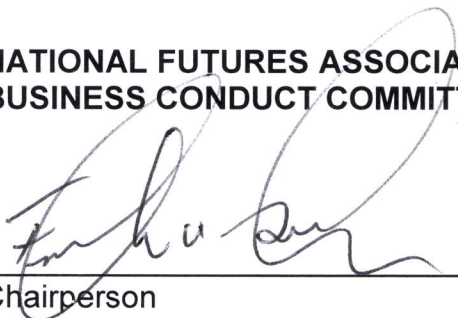
The allegations in this Complaint may constitute a statutory disqualification from registration under Section 8a (3) (M) of the Commodity Exchange Act.

Respondents in this case who apply for registration in any new capacity, including as an AP with a new sponsor, may be denied registration based on the pendency of this case.

Pursuant to the provisions of CFTC Regulation 1.63, penalties imposed in connection with this Complaint may temporarily or permanently render Respondents who are individuals ineligible to serve on disciplinary committees, arbitration panels and governing boards of a self-regulatory organization, as that term is defined in CFTC Regulation 1.63.

**NATIONAL FUTURES ASSOCIATION
BUSINESS CONDUCT COMMITTEE**

Dated: 09/11/2013

By: 
Chairperson

AFFIDAVIT OF SERVICE

I, Nancy Miskovich-Paschen, on oath state that on September 11, 2013, served a copy of the attached Complaint, by sending such copy by e-mail and overnight delivery, in an envelope addressed as follows to:


Ace Investment Strategists LLC
8609 Westwood Center Drive
Suite 168
Vienna, VA 22182
Attn: Yu-Dee Chang, President
E-mail: toptrader_yudee@yahoo.com

and by hand delivery to:

Philip M. Raleigh, Esq.
National Futures Association
300 South Riverside Plaza
Suite 1800
Chicago, IL 60606


Nancy Miskovich-Paschen

Subscribed and sworn to before me
on this 11th day of September 2013.



Notary Public

