

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES ACT OF 1933**

**Release No. 9296 / January 26, 2012**

**SECURITIES EXCHANGE ACT OF 1934**

**Release No. 66246 / January 26, 2012**

**INVESTMENT ADVISERS ACT OF 1940**

**Release No. 3365 / January 26, 2012**

**INVESTMENT COMPANY ACT OF 1940**

**Release No. 29936 / January 26, 2012**

**ADMINISTRATIVE PROCEEDING**

**File No. 3-14557**

**In the Matter of**

**SPENCER D. MINDLIN, and  
ALFRED C. MINDLIN, CPA,**

**Respondents.**

**ORDER MAKING FINDINGS AND  
IMPOSING REMEDIAL SANCTIONS AND A  
CEASE-AND-DESIST ORDER PURSUANT  
TO SECTION 8A OF THE SECURITIES ACT  
OF 1933, SECTIONS 15(b) AND 21C OF THE  
SECURITIES EXCHANGE ACT OF 1934,  
SECTION 203(f) OF THE INVESTMENT  
ADVISERS ACT OF 1940, AND SECTION  
9(b) OF THE INVESTMENT COMPANY ACT  
OF 1940**

**I.**

On September 21, 2011, the Securities and Exchange Commission (“Commission”) instituted public administrative and cease-and-desist proceedings pursuant to Section 8A of the Securities Act of 1933 (“Securities Act”), Sections 15(b) and 21C of the Securities Exchange Act of 1934 (“Exchange Act”), Section 203(f) of the Investment Advisers Act of 1940 (“Advisers Act”), and Section 9(b) of the Investment Company Act of 1940 (“Investment Company Act”) against Spencer D. Mindlin (“Spencer Mindlin”), and cease-and-desist proceedings pursuant to

Section 8A of the Securities Act and Section 21C of the Exchange Act against Alfred C. Mindlin, CPA (“Alfred Mindlin” and together with Spencer Mindlin, “Respondents”).

## II.

Respondents have submitted Offers of Settlement (the “Offers”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission or in which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over them and the subject matter of these proceedings, which are admitted, Respondents consent to the entry of this Order Making Findings and Imposing Remedial Sanctions and a Cease-and-Desist Order Pursuant to Section 8A of the Securities Act of 1933, Sections 15(b) and 21C of the Securities Exchange Act of 1934, Section 203(f) of the Investment Advisers Act of 1940, and Section 9(b) of the Investment Company Act of 1940 (“Order”), as set forth below.

## III.

On the basis of this Order and Respondents’ Offers, the Commission finds<sup>1</sup> that:

### Summary

1. These proceedings arise out of an insider trading scheme involving Spencer Mindlin and his father Alfred Mindlin, who traded while in possession of material nonpublic information obtained by Spencer Mindlin while he was employed at Goldman, Sachs & Co. (“Goldman”). While working on Goldman’s Exchange-Traded Funds Desk (“ETF Desk”), Spencer Mindlin obtained material nonpublic information concerning the plans of certain Goldman employees to purchase and sell large amounts of securities on behalf of Goldman (“Goldman’s Trading Intentions”). Goldman’s Trading Intentions concerned securities underlying an exchange-traded fund (“ETF”), the SPDR S&P Retail ETF (“XRT”). Prior to these Goldman employees placing large buy orders in securities underlying the XRT, Spencer and Alfred Mindlin took long positions in those same securities. When these Goldman employees placed large sell orders in securities underlying the XRT, Spencer and Alfred Mindlin took short positions in those same securities.

2. Specifically, on four occasions, in December 2007 and March 2008, Spencer Mindlin and Alfred Mindlin traded securities underlying the XRT (“XRT underliers”) with knowledge of Goldman’s Trading Intentions, reaping illicit profits in excess of \$57,000. Spencer Mindlin learned of Goldman’s Trading Intentions through e-mail communications shortly before he and Alfred Mindlin placed their trades in XRT underliers.

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<sup>1</sup> The findings herein are made pursuant to Respondents’ Offers of Settlement and are not binding on any other person or entity in this or any other proceeding.

3. Spencer Mindlin did not conduct any of the trading in XRT underliers through his own account at Goldman. Instead, Spencer and Alfred Mindlin placed almost all of their trades in a brokerage account in the name of a family member.

4. By virtue of their conduct, Spencer Mindlin and Alfred Mindlin willfully violated Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

### **Respondents**

5. **Spencer Mindlin**, age 33, resides in New York, New York. From September 2007 until his resignation in August 2009, Spencer Mindlin was an employee on Goldman's ETF Desk. During this period, Goldman was a broker-dealer and investment adviser registered with the Commission. Spencer Mindlin previously worked as an analyst at Goldman Sachs Execution & Clearing, L.P. and its predecessor firm Spear, Leeds & Kellogg from June 2001 through September 2007. Currently, he is unemployed. Since 2003, he has held Series 7, 55 and 63 licenses.

6. **Alfred Mindlin**, age 68, resides in Massapequa, New York and Delray Beach, Florida. He is a certified public accountant licensed in New York but has not practiced before the Commission. Alfred Mindlin is the president and sole employee of Alfred Carl Mindlin, C.P.A., P.C.

### **Other Relevant Entities**

7. **Goldman** is a Delaware corporation headquartered in New York, New York. Goldman is the principal U.S. broker-dealer of The Goldman Sachs Group, Inc., a global investment banking, securities and investment management firm.

8. **Sport Supply Group Inc.** ("Sport Supply") is a Delaware corporation headquartered in Dallas, Texas. In August 2010, Sport Supply was acquired by a private equity firm, Onex Corporation. Prior to the acquisition, Sport Supply's common stock was registered with the Commission pursuant to Section 12(b) of the Exchange Act and traded on the American Stock Exchange under the symbol "RBI."

9. **PC Mall, Inc.** ("PC Mall") is a Delaware corporation headquartered in Torrance, California. PC Mall is a direct marketer of technology products and services to businesses, governments and educational institutions. PC Mall's securities are registered with the Commission pursuant to Section 12(b) of the Exchange Act, and its stock trades on the Nasdaq under the symbol "MALL."

10. **Stage Stores, Inc.** ("Stage Stores") is a Nevada corporation headquartered in Houston, Texas. Stage Stores is a specialty department store retailer that focuses on small and mid-sized markets. Stage Stores' securities are registered with the Commission pursuant to

Section 12(b) of the Exchange Act, and its stock trades on the New York Stock Exchange under the symbol “SSI.”

11. **ValueVision Media, Inc.** (“ValueVision”) is a Minnesota corporation headquartered in Eden Prairie, Minnesota. ValueVision is a multi-media retailer, engaged in marketing, selling and distributing products directly to consumers through various digital platforms. ValueVision’s securities are registered with the Commission pursuant to Section 12(b) of the Exchange Act, and its stock trades on the Nasdaq under the symbol “VVTV.”

## **Background**

### **Insider Trading**

12. Spencer and Alfred Mindlin made over \$57,000 in profits by trading XRT underliers with knowledge of Goldman’s nonpublic trading intentions in December 2007 and March 2008. Prior to December 2007, neither Spencer nor Alfred Mindlin had ever purchased or sold XRT underliers around an index rebalance. Rather than use Spencer Mindlin’s personal brokerage account, Spencer and Alfred Mindlin chose to execute almost all of these trades in a brokerage account at TD Ameritrade, Inc. (“TD Ameritrade”) held in the name of a family member. Early on, Spencer and Alfred Mindlin also traded in one of Alfred Mindlin’s brokerage accounts.

13. The XRT is an equal-weighted ETF, composed of a mix of U.S.-based apparel, automotive and bargain retailers. The XRT is designed to replicate the S&P Retail Select Industry Index (“S&P Retail Index”) and rebalances quarterly on the third Friday of the last month of the quarter (the “Rebalance Effective Date”) to mirror the S&P Retail Index. The securities to be added and deleted from the S&P Retail Index are published before each Rebalance Effective Date. On the Rebalance Effective Date, the XRT adds and deletes the same securities from its holdings as the S&P Retail Index adds and deletes from its holdings.

14. By virtue of his position on Goldman’s ETF Desk, Spencer Mindlin knew that Goldman maintained a large net long position in XRT. Spencer Mindlin also knew that Goldman sold short securities added to the S&P Retail Index and purchased securities deleted from the S&P Retail Index in order to hedge this position in XRT. Spencer Mindlin also understood that XRT was an equal-weighted ETF as opposed to a traditional market-capitalization weighted ETF because it holds stocks in equal amounts rather than by market capitalization.

### **December 2007 Trades in Sport Supply**

15. In December 2007 -- three months after Spencer Mindlin started working on Goldman’s ETF Desk -- father and son embarked on their scheme with their trading in Sport Supply put options. Specifically, Spencer and Alfred Mindlin used nonpublic information about Goldman’s intentions to sell Sport Supply stock. Spencer Mindlin obtained this information via emails from his colleagues at Goldman and by virtue of his position on the ETF Desk. Spencer

and Alfred Mindlin reaped a total profit of \$24,608 from trading Sport Supply securities in the family member's account at TD Ameritrade and in Alfred Mindlin's brokerage account.

16. Spencer Mindlin did not disclose these brokerage accounts to Goldman, even though Goldman's policies required their disclosure.

17. Spencer Mindlin sought nonpublic information from his colleagues about Goldman's Trading Intentions in Sport Supply days after learning that it would be added to the XRT. On December 12, 2007, Standard & Poor's Financial Services LLC announced the securities that would be added and deleted from the S&P Retail Index, which the XRT mirrors, on the Rebalance Effective Date of December 21, 2007. One of the securities to be added, Sport Supply, had an average daily trading volume of less than 30,000 shares.

18. On December 17, 2007 at 1:30 p.m., Spencer Mindlin emailed a Goldman employee on Goldman's trading desk, asking "you got 10 min to talk about this rebal trade?" The email further stated that Spencer Mindlin "just want[ed] to better understand how we put together the rebalance trade and the piece to short in advance."

19. Shortly after Spencer Mindlin sought this nonpublic information about Goldman's rebalance strategy, he calculated the critical piece of nonpublic information that he and his father relied on to trade Sport Supply securities. At 5:21 p.m. on December 17, 2007, Spencer Mindlin sent an email to his colleagues on the ETF Desk stating that the desk would need to rebalance its hedge of 3.85 million shares of XRT on the Rebalance Effective Date. This nonpublic data provided sufficient information for Spencer Mindlin to calculate Goldman's Trading Intentions in those underlier securities to be added to and deleted from the XRT.

20. Spencer Mindlin knew that Goldman's Trading Intentions could place significant downward pressure on the price of Sport Supply stock on the Rebalance Effective Date. On December 17, 2007, a Goldman employee emailed Spencer Mindlin and his former colleagues on the ETF Desk a spreadsheet with the subject line "XRT Q4 rebalance." According to this spreadsheet, Goldman would have to sell short 2,931.38 shares of Sport Supply per 50,000 shares of XRT to modify its hedge of XRT, which is a calculation based on public information. Therefore, to hedge its 3.85 million share position in XRT, Goldman would have to sell short approximately 225,000 shares of Sport Supply, which amounted to more than seven times the average daily volume of Sport Supply.

21. Spencer and Alfred Mindlin were in unusually close communication on the same day that Spencer Mindlin calculated the ETF Desk's nonpublic position in XRT. On December 17, 2007, Spencer Mindlin placed five telephone calls to Alfred Mindlin's office phone number, as well as two back-to-back calls to Spencer Mindlin's parents' residence, at 8:45 p.m. and 9:52 p.m., which lasted approximately sixty-seven minutes and sixteen minutes, respectively. Earlier in the day, Spencer and Alfred Mindlin engaged in an instant message exchange concerning puts. Spencer Mindlin concluded the exchange by writing "that's enough convo." On December 18, 2007, Spencer Mindlin's office telephone line and Alfred Mindlin's residence exchanged at least eight calls or attempted calls.

22. After receiving nonpublic information about Goldman’s position in XRT on December 17, 2007, Spencer and Alfred Mindlin traded XRT underliers the next day. On Tuesday, December 18, 2007 at 12:00 p.m., Spencer Mindlin emailed his father, instructing him to “ask him to do it with a \$.35 limit. Be sure to get that limit on the trade.” On the same day, Alfred Mindlin purchased 60 Sport Supply put option contracts with a strike price of \$10 in his brokerage account at Citigroup Global Markets, Inc. (“Citigroup”). All of these put options were set to expire three days later on December 21, 2007 -- the same day as the Rebalance Effective Date. The limit price on the Sport Supply put options was \$.35, as Spencer Mindlin had instructed in his email.

23. On December 18, 2007 at 12:37 p.m., Alfred Mindlin phoned TD Ameritrade to upgrade the family member’s account to allow for the trading of options. While on hold with the TD Ameritrade representative, Alfred Mindlin received a call on another line from Spencer Mindlin. Because Alfred Mindlin’s call with TD Ameritrade was recorded, Spencer and Alfred Mindlin’s conversation was also captured on tape. Father and son proceeded to engage in the following exchange before the TD Ameritrade representative returned to the call:

*Alfred Mindlin:* It’s done.

*Spencer Mindlin:* It’s done?

*Alfred Mindlin:* Yep.

*Spencer Mindlin:* Okay. What price?

*Alfred Mindlin:* Three-Five.

*Spencer Mindlin:* Okay. Great.

*Alfred Mindlin:* Okay.

*Spencer Mindlin:* Actually, did I tell you what happened? I mean why I started freaking out?

*Alfred Mindlin:* No. No, you didn’t tell me **anything**.

*Spencer Mindlin:* But, I did. I was talking to you before. I told you, right?

(Emphasis in the original).

24. According to Spencer Mindlin’s cellular phone records, father and son spoke for another seven minutes after the TD Ameritrade phone call ended. Approximately five minutes later, at 12:51 p.m., the TD Ameritrade account purchased a total of 30 Sport Supply put option contracts with a strike price of \$10 that were set to expire on December 21, 2007. At 2:06 p.m., Spencer Mindlin telephoned TD Ameritrade, pretending to be his father and sought advice concerning the mechanics of covering his short option position with a market-on-close purchase order on Friday, when the options were set to expire. This telephone conversation was recorded by TD Ameritrade. In response to the TD Ameritrade representative’s questions concerning why he needed to place a market-on-close order, Spencer Mindlin stated, “I believe it is going to close at the lowest [price].” Spencer Mindlin further stated that he did not want TD Ameritrade’s risk group “to be buying stock all day Friday.”

25. Spencer and Alfred Mindlin added to their bearish position hours prior to Goldman's large sales in Sport Supply stock and shortly after receiving further assurances of Goldman's nonpublic trading intentions. On the Rebalance Effective Date of Friday, December 21, 2007 at 10:56 a.m., a colleague on Goldman's ETF Desk emailed Spencer with a subject line reading "FW: XRT trade based on 4,350,000 shares." As stated above, Goldman's current position in XRT, 4,350,000 shares, is the only nonpublic information required to calculate Goldman's Trading Intentions in XRT underliers. On that same day, Spencer Mindlin impersonated his father on at least three calls to TD Ameritrade, all of which were recorded by TD Ameritrade. Throughout these conversations, Spencer Mindlin repeatedly stressed that TD Ameritrade's Risk Department should not purchase Sport Supply securities throughout the day because this would "chew into my profit -- my profit on this trade." At 2:19 p.m., during his last call of the day with TD Ameritrade, Spencer Mindlin attempted to purchase an additional 22 Sport Supply put option contracts with a strike price of \$10 notwithstanding the fact that the options were set to expire in less than 90 minutes and cost \$1.25 per contract. At the time, Sport Supply was trading at \$9.09 per share. This purchase was highly risky because Spencer and Alfred Mindlin would lose money unless the price of Sport Supply fell below \$8.75 within a short window. Because of margin requirements, however, Spencer Mindlin was able to purchase only 7 additional put option contracts. The total cost of the Sport Supply put options purchased in the TD Ameritrade account was \$4,243. During the same call, Spencer Mindlin placed a market-on-close order to purchase 3,700 shares of Sport Supply, which would cover the exercise of the 37 put option contracts. After placing this order, Spencer Mindlin said, "Okay. I'll see you in the money .... Great. Thank you so much."

26. As Spencer Mindlin predicted in his call with TD Ameritrade, Goldman and other large traders caused the price of Sport Supply stock to plummet in the final hour of trading on December 21, 2007. During the last hour of trading on December 21, 2007, the price of Sport Supply fell from \$9.05 to \$7 per share, a decline of approximately 22 percent. During this same hour, Goldman was a large and significant seller of Sport Supply stock. There was no significant news about Sport Supply during the week of December 21, 2007.

27. The put options in the TD Ameritrade account and in Alfred Mindlin's Citigroup account were exercised at the market close on December 21, 2007, and the accounts collectively purchased 9,700 shares of Sport Supply to cover the short position created by the exercised put options, resulting in a total profit of \$24,608.

### **March 2008 Trades in PC Mall, Stage Stores and ValueVision Media**

28. During the next quarterly index rebalancing, Spencer and Alfred Mindlin traded XRT underliers using nonpublic information about Goldman's Trading Intentions that Spencer Mindlin had obtained from emails with his Goldman colleagues. These trades proved yet again to be profitable, resulting in a total profit of \$32,873.

29. On March 7, 2008, Standard & Poor's Financial Services LLC announced the securities that would be added and deleted from the S&P Retail Index, which the XRT mirrors, on the Rebalance Effective Date of March 20, 2008. Three of the securities to be deleted, PC Mall,

Stage Stores and ValueVision Media, had average daily trading volumes of less than 300,000 shares, 500,000 shares, and 500,000 shares, respectively.

30. The trades in March 2008 were again placed in the family member's brokerage account, which Spencer Mindlin had not disclosed to Goldman, even though Goldman's policies required disclosure.

31. Spencer Mindlin received nonpublic information concerning Goldman's position in XRT shortly before his and his father's decision to trade XRT underliers in March 2008. On March 17, 2008 at 4:26 p.m., Spencer Mindlin received an email stating that the two desks involved in the XRT rebalance had a total of over \$30 million in XRT inventory. As stated above, this data was sufficient to calculate Goldman's Trading Intentions in the securities to be added to and deleted from the XRT. PC Mall, Stage Stores, and ValueVision were three of the least liquid stocks to be deleted from the XRT. Spencer Mindlin, therefore, knew that Goldman would need to purchase a large block of these securities in order to rebalance its hedge of the XRT.

32. Throughout this period, Spencer and Alfred Mindlin exchanged timely calls followed by Spencer Mindlin seeking and obtaining information concerning Goldman's Trading Intentions from his co-workers. On March 18, 2008, Alfred Mindlin sent his son an instant message asking Spencer Mindlin to call him later that evening. A call lasting approximately six minutes took place between Spencer Mindlin's office telephone and Alfred Mindlin's residential telephone line that night. The next morning, Spencer Mindlin sent an email with the subject "[r]: [u]pcoming rebalances" to a colleague at Goldman asking "do you have an update on how this trade is going you're sending out." The body of the email contained an earlier email that referenced the rebalance of the XRT and another ETF. On March 19, 2008 at 10:20 a.m., Spencer Mindlin received an email listing a position in XRT of over 9.5 million shares for the ETF Desk and the synthetic products group desk, which handled the hedging of Goldman's lending inventory in XRT.

33. Spencer Mindlin traded XRT underliers within hours after receiving Goldman's nonpublic XRT position contained in the March 19 email. On March 19, 2008 at 1:59 p.m., Spencer Mindlin logged onto the TD Ameritrade account. Minutes later, an order was placed in the TD Ameritrade account to purchase 500 shares of PC Mall stock and 400 shares of ValueVision stock. That evening, father and son had three calls lasting approximately 6 minutes, 35 minutes and 14 minutes each.

34. Spencer and Alfred Mindlin added to their bullish positions minutes after receiving further assurances of Goldman's Trading Intentions. On March 20, 2008 at 10:55 a.m., Spencer Mindlin received an email attachment containing additional nonpublic information about Goldman's rebalance trades in the XRT underliers. As expected from the earlier emails, three of the largest purchases listed in the March 20 email attachment were in PC Mall, ValueVision and Stage Stores. Upon receiving this email attachment, Spencer Mindlin logged onto the TD Ameritrade account. Minutes later, orders were placed in the TD Ameritrade account to purchase 30 PC Mall call option contracts at a total cost of \$1,682, 30 ValueVision call option contracts at a total cost of \$7,082, and 25 Stage Stores call option contracts at a total cost of \$1,178. All of the



option contracts were set to expire within five hours of purchase. Later that day, market-on-close orders were placed to sell short 3,000 shares of PC Mall and ValueVision and 2,500 shares of Stage Stores to cover the position created by the exercised call options, and market-on-close orders were placed to sell 500 shares of PC Mall and 400 shares of ValueVision to close the long positions created on March 19, 2008.

35. Goldman and other large traders caused the price of PC Mall, ValueVision, and Stage Stores to rise sharply toward the market close on March 20, 2008. During the last hour of trading on March 20, 2008, the stock price of PC Mall, ValueVision and Stage Stores increased approximately 62, 49, and 7 percent, respectively. In that same hour, Goldman was a large and significant purchaser of PC Mall, ValueVision, and Stage Stores stock. There was no significant news about PC Mall, ValueVision, and Stage Stores during the week of March 20, 2008.

36. The market-on-close orders in the TD Ameritrade account executed at the close on March 20, 2008. The TD Ameritrade account made \$21,287.05, \$7,995.31 and \$3,590.81 from the trades in PC Mall, ValueVision and Stage Stores, respectively.

#### **Spencer Mindlin's Duty to Keep Confidential All Material Nonpublic Information About Goldman's Trading Intentions**

37. As an employee of Goldman, Spencer Mindlin had a duty to keep confidential all material nonpublic information concerning Goldman, including information concerning its trading intentions.

38. The Goldman Sachs Equities General Compliance Training specifically prohibited employees from trading "when in possession of or with knowledge of material proprietary information." The policy defined proprietary information as "nonpublic information, analyses and plans that are created or obtained by [Goldman] for [Goldman's] business purposes," and included "trading positions" and "trading intentions" as examples of proprietary information. The policy further prohibited the use of proprietary information for an employee's "personal benefit or shared with others for their personal gain."

39. Spencer Mindlin attended a training session on September 11, 2007 that covered the Goldman Sachs Equities General Compliance Training.

#### **Spencer and Alfred Mindlin Acted with the Requisite Scienter**

40. Spencer Mindlin knowingly or recklessly, for his direct or indirect benefit, in breach of a duty to Goldman (a) purchased and sold shares of XRT underliers while in possession of material nonpublic information and (b) communicated to Alfred Mindlin, in words or in substance, material nonpublic information concerning Goldman's Trading Intentions.

41. Alfred Mindlin knew, or acted with reckless disregard of the fact, that: (a) Spencer Mindlin was aware of material nonpublic information concerning Goldman's Trading Intentions; (b) Spencer Mindlin communicated to Alfred Mindlin, in words or in substance,

material nonpublic information concerning Goldman's Trading Intentions; and (c) Spencer Mindlin's conveyance of this material nonpublic information to Alfred Mindlin constituted a breach of a duty to keep confidential all material nonpublic information obtained from Goldman.

42. As a result of the conduct described above, Respondents willfully violated Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, which prohibit fraudulent conduct in the offer and sale of securities and in connection with the purchase, or sale of securities.

#### **Disgorgement and Civil Penalties**

43. Respondent Spencer Mindlin has submitted a sworn Statement of Financial Condition dated November 22, 2011 and other evidence and has asserted his inability to pay a civil penalty greater than \$25,000, an amount that is in addition to a joint obligation with his father to pay disgorgement of \$57,481 and prejudgment interest of \$10,081.

#### **IV.**

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondents' Offers.

Accordingly, pursuant to Section 8A of the Securities Act, Sections 15(b) and 21C of the Exchange Act, Section 203(f) of the Advisers Act, and Section 9(b) of the Investment Company Act as to Spencer Mindlin and pursuant to Section 8A of the Securities Act and Section 21C of the Exchange Act as to Alfred Mindlin, it is hereby ORDERED that:

A. Respondents shall cease and desist from committing or causing any violations and any future violations of Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

B. Respondent Spencer Mindlin be, and hereby is:

- i. barred from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization;
- ii. prohibited from serving or acting as an employee, officer, director, member of an advisory board, investment adviser or depositor of, or principal underwriter for, a registered investment company or affiliated person of such investment adviser, depositor, or principal underwriter; and
- iii. barred from participating in any offering of a penny stock, including: acting as a promoter, finder, consultant, agent or other person who engages in activities with a broker, dealer or issuer for

purposes of the issuance or trading in any penny stock, or inducing or attempting to induce the purchase or sale of any penny stock,

with the right to apply for reentry after three (3) years to the appropriate self-regulatory organization, or if there is none, to the Commission.

C. Any reapplication for association by the Respondent Spencer Mindlin will be subject to the applicable laws and regulations governing the reentry process, and reentry may be conditioned upon a number of factors, including, but not limited to, the satisfaction of any or all of the following: (a) any disgorgement ordered against the Respondent Spencer Mindlin, whether or not the Commission has fully or partially waived payment of such disgorgement; (b) any arbitration award related to the conduct that served as the basis for the Commission order; (c) any self-regulatory organization arbitration award to a customer, whether or not related to the conduct that served as the basis for the Commission order; and (d) any restitution order by a self-regulatory organization, whether or not related to the conduct that served as the basis for the Commission order.

D. Respondents shall, jointly and severally, within ten days of the entry of this Order, pay disgorgement of \$57,481 and prejudgment interest of \$10,081 to the United States Treasury. If timely payment is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600. Payment shall be: (A) made by wire transfer, United States postal money order, certified check, bank cashier's check or bank money order; (B) made payable to the Securities and Exchange Commission; (C) hand-delivered or mailed to the Securities and Exchange Commission, Office of Financial Management, 100 F St., NE, Stop 6042, Washington, DC 20549; and (D) submitted under cover letter that identifies Spencer Mindlin and Alfred Mindlin as Respondents in these proceedings, the file number of these proceedings, a copy of which cover letter and money order or check shall be sent to Sanjay Wadhwa, Division of Enforcement, Securities and Exchange Commission, 3 World Financial Center, Room 4300, New York, New York 10281.

E. Respondent Spencer Mindlin shall, within ten days of the entry of this Order, pay a civil money penalty in the amount of \$25,000 to the United States Treasury. If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. 3717. Such payment shall be: (A) made by wire transfer, United States postal money order, certified check, bank cashier's check or bank money order; (B) made payable to the Securities and Exchange Commission; (C) hand-delivered or mailed to the Securities and Exchange Commission, Office of Financial Management, 100 F St., NE, Stop 6042, Washington, DC 20549; and (D) submitted under cover letter that identifies Spencer Mindlin as a Respondent in these proceedings, the file number of these proceedings, a copy of which cover letter and money order or check shall be sent to Sanjay Wadhwa, Division of Enforcement, Securities and Exchange Commission, 3 World Financial Center, Room 4300, New York, New York 10281.

F. Based upon Respondent Spencer Mindlin's sworn representations in his Statement of Financial Condition dated November 22, 2011 and other documents submitted to the Commission, the Commission is not imposing a penalty against Respondent Spencer Mindlin greater than \$25,000.

G. The Division of Enforcement (“Division”) may, at any time following the entry of this Order, petition the Commission to: (1) reopen this matter to consider whether Respondent Spencer Mindlin provided accurate and complete financial information at the time such representations were made; and (2) seek an order directing payment of the maximum civil penalty allowable under the law. No other issue shall be considered in connection with this petition other than whether the financial information provided by Respondent Spencer Mindlin was fraudulent, misleading, inaccurate, or incomplete in any material respect. Respondent Spencer Mindlin may not, by way of defense to any such petition: (1) contest the findings in this Order; (2) assert that payment of a penalty should not be ordered; (3) contest the imposition of the maximum penalty allowable under the law; or (4) assert any defense to liability or remedy, including, but not limited to, any statute of limitations defense.

By the Commission.

Elizabeth M. Murphy  
Secretary