

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF BUSINESS REGULATION – SECURITIES DIVISION
JOHN O. PASTORE COMPLEX – BUILDING 69-1
1511 PONTIAC AVENUE, CRANSTON, RHODE ISLAND 02920**

IN THE MATTER OF:)	
)	
BROOKVILLE CAPITAL PARTNERS LLC,)	DBR No. 14-SC-001
ALI HABIB MAYAR,)	
CHRISTOPHER F. VEALE)	
RESPONDENTS.)	

CONSENT ORDER

This Consent Order (“Order”) is entered into by the Rhode Island Department of Business Regulation Division of Securities (the “Department”) and Ali Habib Mayar (“Respondent” or “Mayar”) in connection with the Notice of Intent (“Complaint”), Docket No. 14-SC-001, filed by the Department on January 15, 2014.

On December 21, 2015, Mayar submitted an Offer of Settlement for the purposes of resolving the allegations set forth in the Complaint that is attached as Exhibit 1. Mayar admits the Statement of Facts set forth in Section III herein and admits the Violation of Securities Laws set forth in Section IV herein. Solely for the purposes of these proceedings, Mayar consents to the entry of this Order by the Department, consistent with the language and terms of the Offer of Settlement, settling the claims brought in the Complaint with prejudice.

I. JURISDICTION AND AUTHORITY

1. The Securities Division is a Division within the Rhode Island Department of Business Regulation with jurisdiction over matters relating to securities as provided for by Rhode Island Uniform Securities Act of 1990, (the “RIUSA”, the “Act”), The Act authorizes the Division to

regulate: 1) the offers and/or sales of securities; 2) those persons offering and/or selling securities within the State; and 3) those persons transacting business as sales representatives within the State.

2. The Division brought this action pursuant to the authority conferred upon it in the R.I. Gen. Laws §§7-11-212, 7-11-602, 7-11-710 and 42-35-1 et seq. wherein the Division has the authority to conduct an adjudicatory proceeding to enforce the provisions of the Act and all regulations and rules promulgated thereunder.

II. DEFINITIONS

3. Except as otherwise expressly stated, the conduct described herein occurred between August 2010 through June 2012.

4. Ali Habib Mayar (“Mayar”) is an individual with a last known address in Melville, New York. Mayar has a Financial Industry Regulatory Authority (“FINRA”) Central Registration Depository (“CRD”) number of 2622340. Mayar had been registered with Rhode Island since June 8, 2010 through March 20, 2015. Mayar was a registered representative with FINRA and Brookville Capital Partners LLC during the relevant time period.

5. Brookville Capital Partners LLC (“Brookville”) was a broker-dealer with a last known address of 384 RXR Plaza, Uniondale, New York 11556. Brookville was formerly known as New Castle Financial Services, LLC and before that, Trade Wall Street, Inc. Brookville had a FINRA CRD number of 102380. Brookville was expelled from FINRA registration on June 8, 2015. Brookville was registered with Massachusetts from September 29, 2000 through April 14, 2015. Brookville was registered with Rhode Island from July 22, 2005 through April 14, 2015.

III. STATEMENT OF FACTS

6. “Senior Investor” is a Rhode Island resident and owned a commercial masonry business in Massachusetts. Senior Investor was eighty-one (81) years old at the time he opened his investment account with Brookville.
7. Senior Investor worked full-time until December 2011, when he semi-retired.
8. Senior Investor testified that his previous investment experience consisted of a securities account held at another investment firm. This non-Brookville account held approximately \$95,000.00 of mutual funds and the stated objective was “income.”
9. Senior Investor also held some insurance and bank products, one of which was a \$500,000.00 variable annuity policy that he was forced to liquidate prior to maturity costing him \$11,000.00 in surrender charges.
10. At the time that Senior Investor was cold called, Brookville employed approximately thirty (30) people whose job was to cold call, develop leads and open new accounts for Brookville’s registered agents, who paid their salaries.
11. In August 2010, a salesperson from Respondent Brookville cold-called Senior Investor to open a securities investment account.
12. Any leads developed by the cold-caller, including Senior Investor, were opened as a joint account between Mayar and another Brookville broker, Christopher Veale (“Veale”).
13. During the relevant time frame, commissions were jointly shared between Mayar, Veale and Brookville on transactions in Senior Investor’s Brookville account. From August 2010 to approximately August, 2011, Ali Mayar was the lead broker for the account and after August, 2011, Christopher Veale acted as the lead broker for the account.
14. From the beginning, Senior Investor provided Mayar and Veale with his home telephone number and his cellphone number. Senior Investor provided the cellphone number to the

Brookville agents for calls during the day when he worked at commercial masonry jobs in both Massachusetts and Rhode Island. Senior Investor testified that he received and made calls from his work and home to both Brookville agents.

15. Prior to opening the Brookville account, Mayar called Senior Investor to introduce himself. After that, new account paperwork was sent to the Senior Investor. Senior Investor testified that this new account paperwork was “already filled out, I just signed it” and “I don’t think I read everything” because the “stuff they sent me had a lot of fine print.”

16. Mayar testified that the paper work was based on all the information provided to Mayar by Senior Investor and it was signed by Senior Investor.

17. When the account was opened in August of 2010, Senior Investor stated that “they [Mayar] talked about stocks, Verizon, Chesapeake Gas, Caterpillar, that’s how they got me started; they sounded good.”

18. When questioned about the stocks that later appeared in his portfolio, Senior Investor stated that he did not know what American depository receipts, exchange-traded funds, or exchange-traded notes were and that neither Mayar nor Veale explained to him what these securities were. Senior Investor testified that, “most of these stocks they were buying, I never heard of them.”

A. Margin¹

19. In May of 2011, Brookville sent Senior Investor paperwork to open a margin account. Senior Investor states that he could not remember receiving or signing the margin account opening documents.

¹ A margin account is a brokerage account in which the broker lends the customer cash to purchase securities. The loan in the margin account is collateralized by the securities and cash in the customer’s account. Interest is charged on these loans.

20. Senior Investor testified that he “never knew anything about margin” and that he “thought you had to have the money to buy the stock.”
21. Senior Investor explained that he thought margin was “they buy it and then you can only hold onto the stock for so long and then you gotta sell it.”
22. In testimony provided to the Division, Mayar testified that he spoke to Senior Investor and believed he understood the purpose of a margin account. Further, Mayar testified to reviewing a document from an account Senior Investor had with Merrill Lynch that included a margin account.
23. Senior Investor testified that when he received a margin call,² it “came as a complete surprise.”
24. From June 2011 through June 2012, Senior Investor paid \$28,359.92 in margin interest in his Brookville account. During at least four (4) of these months, the average amount of purchases on margin was over one million dollars. Brookville charged 8% interest on margin loans.

B. Active Account/Short-Term Trading

25. Section 10.4.1 of Brookville’s Written Supervisory Procedures (“WSP”) stated that:

RRs [Registered Representatives] must have a reasonable basis for recommending securities transactions. Recommendations should be based on information known about the customer including new account information and updates to new account information. Information of particular importance includes the customer’s other security holdings, financial situation and needs, and stated investment objectives.

² A margin call is a broker’s demand that a customer deposit additional money or securities or sell assets in the account in order to bring the customer’s margin account up to the minimum maintenance margin. If the value of securities held as collateral in a customer’s margin account drops sufficiently, a “margin call” will be made and the account holder will be required to deposit more cash or sell a portion of securities.

26. Section 9.10.1 of Brookville’s WSP specifically stated with regard to senior investors that:

When opening and handling accounts for senior investors, there are certain considerations in addition to usual account handling procedures. There is no benchmark for what constitutes a “senior” or “older” investor, but generally these are individuals who are approaching or have achieved retirement.

27. Section 9.10.2 of Brookville’s WSP regarding “Recommendations to Senior Investors” stated that:

Suitability considerations are a concern for all types of accounts. While suitability requirements do not specifically refer to age or life stage, these factors should be considered when making recommendations to older investors. Considerations when dealing with senior investors include:

- Current and future prospects for employment
- Primary expenses including whether the customer still has a mortgage
- Sources of income and whether it is fixed or will be in the future
- Income needed to meet fixed or anticipated expenses
- Savings for retirement and how they are invested
- Liquidity needs
- Financial and investment goals (income needs, preservation of capital, accumulation of assets for heirs)
- Health care insurance and future needs to fund health costs

28. Section 9.4 of Brookville’s WSP required its agents and supervisory personnel to “promptly update customer new account information whenever they are informed or become aware of changes.”

29. From August 2010 through August 2011, Mayar placed numerous trades in Senior Investor’s Brookville account. Thereafter, Christopher Veale was the lead agent making trades for the account.

30. Senior Investor signed Brookville’s active account form letters, which were titled “Intent to Maintain an Active Account” on two occasions (May 24, 2011 and February 14, 2012).

Senior Investor stated that he did not know the purpose of these letters, nor did he know what

maintaining an “active account” meant. Senior Investor testified that he questioned Mayar about this letter, but he explained that the letter was needed for them to buy more stock for his account.

31. The active account letters also did not explain why Brookville was sending the letters to investors and were not sent with a cover letter. The body of the form letters did not identify the respective accounts as “actively traded” nor indicate that a certain number of trades or a certain amount of turnover had taken place. The active account letters simply stated that “certain clients may trade frequently causing a high turnover of their assets.” In addition, the letter stated that client “attests that he is an active trader and may trade the market frequently giving the volatility of the market.”

C. Churning³

32. Senior Investor testified that since the opening of the Brookville account, Mayar was “supposed to contact me too, when they were selling and buying, but they never did.”

Furthermore, Senior Investor told Mayar during two face-to-face meetings that he wanted “to be informed on every stock they bought and sold, told them both when I met them.”

33. Senior Investor testified that he spoke to Mayar frequently, but did not recall authorizing all of the transactions that took place in his Brookville account. In many instances, Senior Investor only learned about transactions after they had taken place.

34. At no time did Senior Investor provide discretionary authority to Mayar for his Brookville account.

³ Churning occurs when a securities broker buys and sells securities for a customer’s account, without regard to the customer’s investment interests, for the purpose of generating commissions.

35. The turnover ratio in Senior Investor's Brookville account indicates churning. The annualized turnover rate⁴ was approximately 207.35. This is well in excess of the six (6) times generally acceptable benchmark which has been used to demonstrate excessive trading activity.

36. The cost-to-equity ratio⁵ in Senior Investor's Brookville account also indicates churning. The annualized cost-to-equity ratio for the duration of the account was sixteen and one half (16 ½) percent. This represents the amount that Senior Investor's Brookville account would have had to earn to pay for the commissions generated by the brokers' excessive trading. This is well in excess of the twelve (12) percent generally acceptable benchmark that has been used to conclusively demonstrate excessive trading activity.

37. From August 2010 through June 2012, Senior Investor paid \$319,818.50 in commissions, markups, costs and fees.

38. From August 2010 through June 2012, Senior Investor paid \$28,359.92 in margin interest.

39. On information and belief, the trading in Senior Investor's Brookville account was unsuitable and excessive in light of Senior Investor's age, financial resources, and lack of understanding about the type of trading and nature of securities in his Brookville account.

40. Section 10.41.2 of Brookville's WSP prohibits unauthorized trading by agents. Senior Investor testified that he frequently did not know about transactions until they were reported on his monthly statements or on trade confirmations.

⁴ The annual turnover rate is the number of times per year a customer's securities are replaced by new securities. It is derived by dividing the gross amount of securities purchased in a customer's account during a given period by the average value of the equity in the account during that same period and annualizing that number.

⁵ The cost-to-equity ratio or breakeven percentage is the rate of return that an account would have had to earn on an annual basis in order to cover transaction costs, and thus to break even. It is derived by dividing the total amount of commissions, markups, markdowns, costs, and margin interest by the average equity in the account and annualizing that number.

41. Section 9.8 of Brookville's WSP specifically stated that in the normal course of business no agent of Brookville shall have discretionary authority to trade in a customer's account.

42. Senior Investor testified that he learned of transactions Mayar and/or Veale made only after receiving confirmations, monthly statements or calls to deposit more funds into his Brookville account.

43. In addition to failing to obtain the consent of Senior Investor prior to placing trades in his Brookville account, Mayar also failed to follow Senior Investor's specific requests regarding certain transactions and closing his Brookville account.

44. Brookville WSP 1.16.6 prohibits agents from settling complaints or errors directly with customers and stated "[e]rrors and complaints must be brought to the attention of the employee's designated supervisor."

45. In addition, Brookville WSP 5.7.3 required that:

Oral complaints should be reported immediately to the designated supervisor for sales practice issues to Operations for operational issues. Examples of sales practice issues include complaints regarding losses, improper trades, and other complaints involving the quality of investment or wrongdoing by the RR or BROOKVILLE. . . RRs [Registered Representatives] should not make independent decisions regarding whether to report complaints; all oral complaints should be reported either to the designated supervisor or Operations.

46. On numerous occasions, Senior Investor verbally told Mayar his concerns about his account.

47. No records were provided to the Division regarding reports of Senior Investor's concerns to Brookville supervisors, compliance, or operations.

48. Mayar effected transactions in Senior Investor's account without discretionary authority and against the specific instructions of Senior Investor in contravention of Brookville's stated policies and procedures.

D. Unsuitable Recommendations

49. When Senior Investor initially opened the Brookville account, he deposited approximately \$3,000.00 to “try out” the agents. However, after a few months, Senior Investor significantly increased the account based up on the advice of Mayar.

50. From approximately August 2010 through June 2011, Mayar was in control of Senior Investor’s Brookville account. During this time, Senior Investor deposited \$638,622.00 in to his Brookville account.

51. During the middle of 2011, Senior Investor stated that he met with Mayar to go over his Brookville account and expressed his concerns over the commissions being charged.

52. From August 2010 through December 2012, Senior Investor deposited \$873,622.00 to pay for stock purchases and to meet margin calls.⁶

53. In order to meet his Brookville account obligations, Senior Investor cashed in certificates of deposit, liquidated a \$500,000.00 variable annuity policy and paid a surrender charge of \$11,000.00 and obtained a \$325,000.00 loan that charged 4% interest with his other securities account as collateral.

54. Senior Investor paid interest twice on the same funds: 4% interest on the \$325,000.00 loan and 8% interest on any investment purchases made on margin in his Brookville account from June 2011 through June 2012.

55. Mayar failed to update Senior Investor’s account information including his brokerage profile to reflect the change in Senior Investor’s financial circumstances. In addition, Mayar

⁶ During this time, from August 2010 through June 2012, Senior Investor also withdrew \$150,000.00 from his Brookville account.

made unsuitable recommendations and trades in Senior Investor's account even after they learned of this changed financial circumstances.

56. Section 10.4.1 of Brookville's WSP stated:

RRs must have a reasonable basis for recommending securities transactions. Recommendations should be based on information known about the customer including new account information and updates to new account information. Information of particular importance includes the customer's other security holdings, financial situation and needs, and stated investment objectives.

57. Mayar did not have a reasonable basis for recommending the transactions that took place, particularly in light of Senior Investor's lack of understanding of the type and nature of trading, Senior Investor's liquidation of his other investments, and the loan obtained for the purpose of meeting margin calls and making additional securities purchases in Senior Investor's Brookville account.

58. At all times during the time that Senior Investor held an account at Brookville, Mayar and Veale were the joint brokers of record and shared commissions on all transactions effected in Senior Investor's Brookville securities account.

59. As a result of Senior Investor's complaints reflected in a letter dated January 17, 2012 letter and a letter dated February 27, 2012, Mayar and Veale signed an agreement on March 19, 2012 to pay Senior Investor \$71,500.00 in eighteen (18) monthly installments starting April 15, 2012 (the "March 2012 Settlement Agreement"). Brookville compliance and supervisory personnel knew of the March 2012 Settlement Agreement and that Mayar and Veale were to each pay half of the settlement amount.

60. Senior Investor's Brookville account was finally closed in June of 2012.

61. By November of 2012, Mayar had paid \$35,750 of the money owed to Senior Investor under the March 2012 Settlement Agreement. Senior Investor informed Brookville by facsimile that Veale's November 2012 and December 2012 payments had not been received.

62. In or about September 2013, Senior Investor received a call from the President of Brookville, who offered to pay the \$15,000.00 with interest that Veale still owed to Senior Investor.

63. On September 13, 2013, Brookville and Mayar paid the remainder of the settlement money Veale owed to Senior Investor under the March 2012 Settlement Agreement.

IV. VIOLATIONS OF SECURITIES LAWS

Violation of R.I. GEN. LAWS Sections 7-11-212, 7-11-501 and Division Rule 212(a)-1

1. Section 7-11-212(a) of the Act states:

“(a) The director may by order:

(1) Deny, suspend, or revoke a license;

(2) Limit the securities activities that an applicant or licensed person may perform in this state;

(3) Bar a broker dealer or investment adviser from conducting any securities activities in this state;

(4) Bar an applicant or licensed person from association with a licensed broker dealer or investment adviser; or

Bar from employment with a licensed broker dealer or investment adviser a person who is a partner, officer, director, or a person occupying a similar status or performing a similar function for an applicant or licensed person.”

2. Sections 7-11-212(b)(2)&(8) of the Act state:

“(b) These actions may be taken only if the director finds that the order is in the public interest and that the applicant or licensed person or, in the case of a broker dealer or

investment adviser, a partner, officer, or director, a person occupying a similar status or performing similar functions, or a person directly or indirectly controlling the broker dealer or investment adviser who has done any of the following: ...

(2) Willfully violated or willfully failed to comply with this chapter, a predecessor act, or a rule or order under this chapter or a predecessor act; ...

(8) Has engaged in unethical or dishonest practices in the securities business;”

3. Section 7-11-501 of the Act states:

“In connection with the offer to sell, sale, offer to purchase, or purchase of a security, a person may not, directly or indirectly:

(1) Employ a device, scheme, or artifice to defraud;

(2) Make an untrue statement of a material fact or omit to state a material fact necessary in order to make the statement made, in the light of the circumstances under which they are made, not misleading; or

(3) Engage in an act, practice, or course of business that operates or would operate as a fraud or deceit on a person.”

4. Rule 212(a)-1. Unethical or Dishonest Practices states:

“A. The following are deemed to be unethical or dishonest practices by a broker-dealer: ...

2. Inducing trading in a customer’s account which is excessive in size and frequency in view of the financial resources and character of the account.

3. Recommending to a customer, the purchase, sale or exchange of any security without reasonable grounds to believe that such transaction or recommendation is suitable for the customers based upon reasonable inquiry concerning the customer’s investment objectives, financial situation and needs, and any other relevant information known by the broker-dealer.

4. Executing a transaction on behalf of a customer without authorization to do so. ...

17. Violating any material rule of the U.S. Securities and Exchange Commission (SEC), the Financial Industry Regulatory Authority (FINRA), any national or regional securities exchange or national securities association of which it is a member with respect to any customer, transaction or business in this state;”

“B. The following are deemed unethical or dishonest practices by a sales representative:

9. Engaging in any of the practices specified in paragraphs A. 1. through 8, 15 through 18 or 20.”

5. The conduct of Respondent Mayar, as described above, constitutes a violation of Rule 212(a)-1.

V. ORDER

Based on the foregoing, the Director determines that the following sanctions are in the public interest, appropriate for the protection of investors, and consistent with the purposes fairly intended by the policy and provisions of RIUSA.

Accordingly, it is HEREBY ORDERED that:

A. Respondent Mayar shall permanently cease and desist from further conduct in violation of the RIUSA and Regulations in the State;

B. Respondent Mayar is censured by the Division;

C. Respondent Mayar shall partially compensate the Senior Investor in the amount of fifteen thousand dollars (\$15,000.00) within three (3) months of the entry of the final Consent Order in this matter^{7, 8};

D. At Respondent Mayar's request, the Division may extend, for good cause shown, any of the procedural dates set forth above;

E. In the event that Mayar, having passed the requisite qualifying exams, seeks to register, or in the event that an investment adviser or broker-dealer seeks to register Mayar, as an investment adviser representative or broker-dealer agent, respectively, Mayar agrees that his employment will be subject to a conditional registration order in the State conditioning his registration on terms including, but not limited to, being subject to heightened supervision;

F. Nothing herein is intended to or shall be construed to replace, supersede or override, with respect to Respondent, federal securities laws, rules and regulations of the rules of any self-regulatory organization; and

G. Upon issuance of this Order, if Respondent Mayar fails to comply with any of the terms set forth above, the Division may institute an action to have this agreed upon Order declared null and void. Upon issuance of an appropriate order, after a hearing, the Division may re-institute the actions and investigations that it had brought against the Respondent.

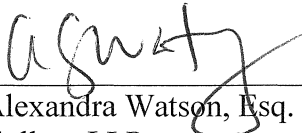
⁷ The payments shall be made in following installments: Month 1 – 5,000; Month 2 – 5,000; and Month 3 – 5,000.

⁸ This compensation shall be separate and apart from any other compensation paid as a result of any agreements with any other regulatory body.

VI. RECOMMENDATION

CONSENTED TO AS TO FORM AND SUBSTANCE BY:

Respondent Mayar, by his counsel:



Alexandra Watson, Esq.
Collora LLP
RI Bar # 9045
Collora LLP
100 High Street
Boston, MA 02110

Date: 2/12/16

For the Department:



Deputy Director Maria D'Alessandro, Esq.

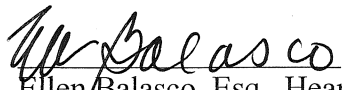
Date: 2/23/16



Legal Counsel Matthew Gendron, Esq.

Date: 2/22/2016

RECOMMENDED BY:



Ellen Balasco, Esq., Hearing Officer

Date: 2/23/16

ORDER


I have read the Consent Order as agreed to by and between the parties in the above captioned matter and I hereby take the following action:

Approve

Modify

Reject

Dated: 2/23/16



Macky McCleary
Director

THIS CONSENT ORDER CONSTITUTES A FINAL ORDER OF THE DEPARTMENT OF BUSINESS REGULATION PURSUANT TO RHODE ISLAND GENERAL LAWS TITLE 42, CHAPTER 35. AS SUCH, THIS ORDER MAY BE APPEALED TO THE SUPERIOR COURT SITTING IN THE COUNTY OF PROVIDENCE WITHIN THIRTY (30) DAYS OF THE DATE OF THIS DECISION. SUCH APPEAL, IF TAKEN, MAY BE COMPLETED BY FILING A PETITION FOR REVIEW OF SAID COURT. HOWEVER, RESPONDENT UNDERSTANDS THAT BY WAIVING ITS RIGHTS TO A COMPLETE HEARING AND AGREEING TO THIS CONSENT ORDER, THE ABOVE RIGHTS ARE WAIVED AND IF ANY TERMS OF THIS CONSENT ORDER ARE VIOLATED, RESPONDENT'S LICENSE SHALL BE SUBJECT TO SUSPENSION OR REVOCATION.

Exhibit 1

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF BUSINESS REGULATION – SECURITIES DIVISION
JOHN O. PASTORE COMPLEX – BUILDING 69-1
1511 PONTIAC AVENUE, CRANSTON, RHODE ISLAND 02920**

IN THE MATTER OF:)
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BROOKVILLE CAPITAL PARTNERS LLC,)
ALI HABIB MAYAR,)
CHRISTOPHER F. VEALE)
)
RESPONDENTS.)

OFFER OF SETTLEMENT

Respondent Ali Habib Mayar (“Respondent” or “Mayar”) submits this Offer of Settlement (“Offer”) with respect to the Administrative Complaint filed on January 15, 2014 by the Rhode Island Department of Business Regulation Securities Division (“the Division”) of dishonest and unethical conduct in the securities business.

This Offer is submitted for the purpose of settlement only, unless this Offer is accepted by the Division, as hereafter set forth. If this Offer is not accepted by the Division, the Offer is withdrawn and shall not be used in or become part of any proceeding. Respondent Mayar, in full settlement of those allegations set forth in the Offer below hereby admits the Division’s Statement of Facts set forth in Section V herein and admits the violations of securities laws set forth in Section VI herein, and consents, for the purpose of these proceedings, to the entry of a Consent Order (“Order”) by the Division, consistent with the language and terms of this Offer, settling the claims thereby with prejudice, and waiving any right to further hearings and appeal under RIUSA or R.I.G.L. Section 42-35-1 *et seq.*

I. JURISDICTION AND AUTHORITY

1. The Securities Division is a Division within the Rhode Island Department of Business Regulation with jurisdiction over matters relating to securities as provided for by Rhode Island Uniform Securities Act of 1990, (the “RIUSA”, the “Act”), The Act authorizes the Division to regulate: 1) the offers and/or sales of securities; 2) those persons offering and/or selling securities within the State; and 3) those persons transacting business as sales representatives within the State.

2. This Offer is made in accordance with R.I. GENERAL LAWS §§ 7-11-212, 7-11-602, 7-11-710 AND 42-35-1 ET SEQ. Specifically, the acts and practices investigated took place in Rhode Island and/or were directed toward Rhode Island.

II. RELEVANT TIME PERIOD

3. Except as otherwise expressly stated, the conduct described herein occurred between August 2010 through June 2012.

III. SETTLING RESPONDENT

4. Ali Habib Mayar (“Mayar”) is an individual with a last known address in Melville, New York. Mayar has a Financial Industry Regulatory Authority (“FINRA”) Central Registration Depository (“CRD”) number of 2622340. Mayar had been registered with Rhode Island since June 8, 2010 through March 20, 2015. Mayar was a registered representative with FINRA and Brookville Capital Partners LLC during the relevant time period. Mayar has cooperated fully with the Securities Division during the course of this investigation. He regrets the incidents that led up to this investigation as is evidenced by his past settlement with the Senior Investor (as defined in the Division’s Administrative Complaint) and this Offer of Settlement. While

Mayar's recollection of the events differ from those of the Senior Investor, he understands the seriousness of his actions, and sometimes inaction.

IV. NON-SETTLING RESPONDENT

5. Brookville Capital Partners LLC ("Brookville") was a broker-dealer with a last known address of 384 RXR Plaza, Uniondale, New York 11556. Brookville was formerly known as New Castle Financial Services, LLC and before that, Trade Wall Street, Inc. Brookville had a FINRA CRD number of 102380. Brookville was expelled from FINRA registration on June 8, 2015. Brookville was registered with Massachusetts from September 29, 2000 through April 14, 2015. Brookville was registered with Rhode Island from July 22, 2005 through April 14, 2015.

V. STATEMENT OF FACTS

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7. Senior Investor worked full-time until December 2011, when he semi-retired.

8. Senior Investor testified that his previous investment experience consisted of a securities account held at another investment firm. This non-Brookville account held approximately \$95,000.00 of mutual funds and the stated objective was "income."

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A. Margin¹

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21. Senior Investor explained that he thought margin was “they buy it and then you can only hold onto the stock for so long and then you gotta sell it.”

22. In testimony provided to the Division, Mayar testified that he spoke to Senior Investor and believed he understood the purpose of a margin account. Further, Mayar testified to reviewing a document from an account Senior Investor had with Merrill Lynch that included a margin account.

¹ A margin account is a brokerage account in which the broker lends the customer cash to purchase securities. The loan in the margin account is collateralized by the securities and cash in the customer’s account. Interest is charged on these loans.

23. Senior Investor testified that when he received a margin call,² it “came as a complete surprise.”

24. From June 2011 through June 2012, Senior Investor paid \$28,359.92 in margin interest in his Brookville account. During at least four (4) of these months, the average amount of purchases on margin was over one million dollars. Brookville charged 8% interest on margin loans.

B. Active Account/Short-Term Trading

25. Section 10.4.1 of Brookville’s Written Supervisory Procedures (“WSP”) stated that:

RRs [Registered Representatives] must have a reasonable basis for recommending securities transactions. Recommendations should be based on information known about the customer including new account information and updates to new account information. Information of particular importance includes the customer’s other security holdings, financial situation and needs, and stated investment objectives.

26. Section 9.10.1 of Brookville’s WSP specifically stated with regard to senior investors that:

When opening and handling accounts for senior investors, there are certain considerations in addition to usual account handling procedures. There is no benchmark for what constitutes a “senior” or “older” investor, but generally these are individuals who are approaching or have achieved retirement.

27. Section 9.10.2 of Brookville’s WSP regarding “Recommendations to Senior Investors” stated that:

Suitability considerations are a concern for all types of accounts. While suitability requirements do not specifically refer to age or life stage, these factors should be considered when making recommendations to older investors. Considerations when dealing with senior investors include:

² A margin call is a broker’s demand that a customer deposit additional money or securities or sell assets in the account in order to bring the customer’s margin account up to the minimum maintenance margin. If the value of securities held as collateral in a customer’s margin account drops sufficiently, a “margin call” will be made and the account holder will be required to deposit more cash or sell a portion of securities.

- Current and future prospects for employment
- Primary expenses including whether the customer still has a mortgage
- Sources of income and whether it is fixed or will be in the future
- Income needed to meet fixed or anticipated expenses
- Savings for retirement and how they are invested
- Liquidity needs
- Financial and investment goals (income needs, preservation of capital, accumulation of assets for heirs)
- Health care insurance and future needs to fund health costs

28. Section 9.4 of Brookville’s WSP required its agents and supervisory personnel to “promptly update customer new account information whenever they are informed or become aware of changes.”

29. From August 2010 through August 2011, Mayar placed numerous trades in Senior Investor’s Brookville account. Thereafter, Christopher Veale was the lead agent making trades for the account.

30. Senior Investor signed Brookville’s active account form letters, which were titled “Intent to Maintain an Active Account” on two occasions (May 24, 2011 and February 14, 2012). Senior Investor stated that he did not know the purpose of these letters, nor did he know what maintaining an “active account” meant. Senior Investor testified that he questioned Mayar about this letter, but he explained that the letter was needed for them to buy more stock for his account.

31. The active account letters also did not explain why Brookville was sending the letters to investors and were not sent with a cover letter. The body of the form letters did not identify the respective accounts as “actively traded” nor indicate that a certain number of trades or a certain amount of turnover had taken place. The active account letters simply stated that “certain clients may trade frequently causing a high turnover of their assets.” In addition, the letter stated that client “attests that he is an active trader and may trade the market frequently giving the volatility of the market.”

C. Churning³

32. Senior Investor testified that since the opening of the Brookville account, Mayar was “supposed to contact me too, when they were selling and buying, but they never did.”

Furthermore, Senior Investor told Mayar during two face-to-face meetings that he wanted “to be informed on every stock they bought and sold, told them both when I met them.”

33. Senior Investor testified that he spoke to Mayar frequently, but did not recall authorizing all of the transactions that took place in his Brookville account. In many instances, Senior Investor only learned about transactions after they had taken place.

34. At no time did Senior Investor provide discretionary authority to Mayar for his Brookville account.

35. The turnover ratio in Senior Investor’s Brookville account indicates churning. The annualized turnover rate⁴ was approximately 207.35. This is well in excess of the six (6) times generally acceptable benchmark which has been used to demonstrate excessive trading activity.

36. The cost-to-equity ratio⁵ in Senior Investor’s Brookville account also indicates churning. The annualized cost-to-equity ratio for the duration of the account was sixteen and one half (16 ½) percent. This represents the amount that Senior Investor’s Brookville account would have had to earn to pay for the commissions generated by the brokers’ excessive trading. This is well

³ Churning occurs when a securities broker buys and sells securities for a customer’s account, without regard to the customer’s investment interests, for the purpose of generating commissions.

⁴ The annual turnover rate is the number of times per year a customer’s securities are replaced by new securities. It is derived by dividing the gross amount of securities purchased in a customer’s account during a given period by the average value of the equity in the account during that same period and annualizing that number.

⁵ The cost-to-equity ratio or breakeven percentage is the rate of return that an account would have had to earn on an annual basis in order to cover transaction costs, and thus to break even. It is derived by dividing the total amount of commissions, markups, markdowns, costs, and margin interest by the average equity in the account and annualizing that number.

in excess of the twelve (12) percent generally acceptable benchmark that has been used to conclusively demonstrate excessive trading activity.

37. From August 2010 through June 2012, Senior Investor paid \$319,818.50 in commissions, markups, costs and fees.

38. From August 2010 through June 2012, Senior Investor paid \$28,359.92 in margin interest.

39. On information and belief, the trading in Senior Investor's Brookville account was unsuitable and excessive in light of Senior Investor's age, financial resources, and lack of understanding about the type of trading and nature of securities in his Brookville account.

40. Section 10.41.2 of Brookville's WSP prohibits unauthorized trading by agents. Senior Investor testified that he frequently did not know about transactions until they were reported on his monthly statements or on trade confirmations.

41. Section 9.8 of Brookville's WSP specifically stated that in the normal course of business no agent of Brookville shall have discretionary authority to trade in a customer's account.

42. Senior Investor testified that he learned of transactions Mayar and/or Veale made only after receiving confirmations, monthly statements or calls to deposit more funds into his Brookville account.

43. In addition to failing to obtain the consent of Senior Investor prior to placing trades in his Brookville account, Mayar also failed to follow Senior Investor's specific requests regarding certain transactions and closing his Brookville account.

44. Brookville WSP 1.16.6 prohibits agents from settling complaints or errors directly with customers and stated "[e]rrors and complaints must be brought to the attention of the employee's designated supervisor."

45. In addition, Brookville WSP 5.7.3 required that:

Oral complaints should be reported immediately to the designated supervisor for sales practice issues to Operations for operational issues. Examples of sales practice issues include complaints regarding losses, improper trades, and other complaints involving the quality of investment or wrongdoing by the RR or BROOKVILLE. . . RRs [Registered Representatives] should not make independent decisions regarding whether to report complaints; all oral complaints should be reported either to the designated supervisor or Operations.

46. On numerous occasions, Senior Investor verbally told Mayar his concerns about his account.

47. No records were provided to the Division regarding reports of Senior Investor's concerns to Brookville supervisors, compliance, or operations.

48. Mayar effected transactions in Senior Investor's account without discretionary authority and against the specific instructions of Senior Investor in contravention of Brookville's stated policies and procedures.

D. Unsuitable Recommendations

49. When Senior Investor initially opened the Brookville account, he deposited approximately \$3,000.00 to "try out" the agents. However, after a few months, Senior Investor significantly increased the account based up on the advice of Mayar.

50. From approximately August 2010 through June 2011, Mayar was in control of Senior Investor's Brookville account. During this time, Senior Investor deposited \$638,622.00 in to his Brookville account.

51. During the middle of 2011, Senior Investor stated that he met with Mayar to go over his Brookville account and expressed his concerns over the commissions being charged.

52. From August 2010 through December 2012, Senior Investor deposited \$873,622.00 to pay for stock purchases and to meet margin calls.⁶

53. In order to meet his Brookville account obligations, Senior Investor cashed in certificates of deposit, liquidated a \$500,000.00 variable annuity policy and paid a surrender charge of \$11,000.00 and obtained a \$325,000.00 loan that charged 4% interest with his other securities account as collateral.

54. Senior Investor paid interest twice on the same funds: 4% interest on the \$325,000.00 loan and 8% interest on any investment purchases made on margin in his Brookville account from June 2011 through June 2012.

55. Mayar failed to update Senior Investor's account information including his brokerage profile to reflect the change in Senior Investor's financial circumstances. In addition, Mayar made unsuitable recommendations and trades in Senior Investor's account even after they learned of this changed financial circumstances.

56. Section 10.4.1 of Brookville's WSP stated:

RRs must have a reasonable basis for recommending securities transactions. Recommendations should be based on information known about the customer including new account information and updates to new account information. Information of particular importance includes the customer's other security holdings, financial situation and needs, and stated investment objectives.

57. Mayar did not have a reasonable basis for recommending the transactions that took place, particularly in light of Senior Investor's lack of understanding of the type and nature of trading, Senior Investor's liquidation of his other investments, and the loan obtained for the purpose of

⁶ During this time, from August 2010 through June 2012, Senior Investor also withdrew \$150,000.00 from his Brookville account.

meeting margin calls and making additional securities purchases in Senior Investor's Brookville account.

58. At all times during the time that Senior Investor held an account at Brookville, Mayar and Veale were the joint brokers of record and shared commissions on all transactions effected in Senior Investor's Brookville securities account.

59. As a result of Senior Investor's complaints reflected in a letter dated January 17, 2012 letter and a letter dated February 27, 2012, Mayar and Veale signed an agreement on March 19, 2012 to pay Senior Investor \$71,500.00 in eighteen (18) monthly installments starting April 15, 2012 (the "March 2012 Settlement Agreement"). Brookville compliance and supervisory personnel knew of the March 2012 Settlement Agreement and that Mayar and Veale were to each pay half of the settlement amount.

60. Senior Investor's Brookville account was finally closed in June of 2012.

61. By November of 2012, Mayar had paid \$35,750 of the money owed to Senior Investor under the March 2012 Settlement Agreement. Senior Investor informed Brookville by facsimile that Veale's November 2012 and December 2012 payments had not been received.

62. In or about September 2013, Senior Investor received a call from the President of Brookville, who offered to pay the \$15,000.00 with interest that Veale still owed to Senior Investor.

63. On September 13, 2013, Brookville and Mayar paid the remainder of the settlement money Veale owed to Senior Investor under the March 2012 Settlement Agreement.

VI. VIOLATIONS OF SECURITIES LAWS

Violation of R.I. GEN. LAWS Sections 7-11-212, 7-11-501 and Division Rule 212(a)-1

1. Section 7-11-212(a) of the Act states:

“(a) The director may by order:

(1) Deny, suspend, or revoke a license;

(2) Limit the securities activities that an applicant or licensed person may perform in this state;

(3) Bar a broker dealer or investment adviser from conducting any securities activities in this state;

(4) Bar an applicant or licensed person from association with a licensed broker dealer or investment adviser; or

Bar from employment with a licensed broker dealer or investment adviser a person who is a partner, officer, director, or a person occupying a similar status or performing a similar function for an applicant or licensed person.”

2. Sections 7-11-212(b)(2)&(8) of the Act state:

“(b) These actions may be taken only if the director finds that the order is in the public interest and that the applicant or licensed person or, in the case of a broker dealer or investment adviser, a partner, officer, or director, a person occupying a similar status or performing similar functions, or a person directly or indirectly controlling the broker dealer or investment adviser who has done any of the following: ...

(2) Willfully violated or willfully failed to comply with this chapter, a predecessor act, or a rule or order under this chapter or a predecessor act; ...

(8) Has engaged in unethical or dishonest practices in the securities business;”

3. Section 7-11-501 of the Act states:

“In connection with the offer to sell, sale, offer to purchase, or purchase of a security, a person may not, directly or indirectly:

- (1) Employ a device, scheme, or artifice to defraud;
- (2) Make an untrue statement of a material fact or omit to state a material fact necessary in order to make the statement made, in the light of the circumstances under which they are made, not misleading; or
- (3) Engage in an act, practice, or course of business that operates or would operate as a fraud or deceit on a person.”

4. Rule 212(a)-1. Unethical or Dishonest Practices states:

“A. The following are deemed to be unethical or dishonest practices by a broker-dealer: ...

2. Inducing trading in a customer’s account which is excessive in size and frequency in view of the financial resources and character of the account.
3. Recommending to a customer, the purchase, sale or exchange of any security without reasonable grounds to believe that such transaction or recommendation is suitable for the customers based upon reasonable inquiry concerning the customer’s investment objectives, financial situation and needs, and any other relevant information known by the broker-dealer.
4. Executing a transaction on behalf of a customer without authorization to do so. ...
17. Violating any material rule of the U.S. Securities and Exchange Commission (SEC), the Financial Industry Regulatory Authority (FINRA), any national or regional securities exchange or national securities association of which it is a member with respect to any customer, transaction or business in this state;”

“B. The following are deemed unethical or dishonest practices by a sales representative:

9. Engaging in any of the practices specified in paragraphs A. 1. through 8, 15 through 18 or 20.”

5. The conduct of Respondent Mayar, as described above, constitutes a violation of Rule 212(a)-1.

VII. REPRESENTATIONS AND AGREEMENTS

Respondent Mayar, in full settlement of the allegations set forth in the Administrative Complaint admits the Division’s Statement of Facts set forth in Section V herein and the violation of securities law set forth in Sections VI herein, and makes the following representations and agrees to the undertakings herein as part of the Offer:

- A. Respondent Mayar agrees to permanently cease and desist from further conduct in violation of the RIUSA and Regulations in the State;
- B. Respondent Mayar agrees to be censured by the Division;
- C. Respondent Mayar agrees to partially compensate the Senior Investor who suffered losses attributable to the alleged wrongdoing in the amount of fifteen thousand dollars (\$15,000.00) within three (3) months of the entry of the final Consent Order in this matter⁷⁸;
- D. At Respondent Mayar’s request, the Division may extend, for good cause shown, any of the procedural dates set forth above;

⁷ The payments shall be made in following installments: Month 1 – 5,000; Month 2 – 5,000; and Month 3 – 5,000.

⁸ This compensation shall be separate and apart from any other compensation paid as a result of any agreements with any other regulatory body.

E. In the event that Mayar, having passed the requisite qualifying exams, seeks to register, or in the event that an investment adviser or broker-dealer seeks to register Mayar, as an investment adviser representative or broker-dealer agent, respectively, Mayar agrees that his employment will be subject to a conditional registration order in the State conditioning his registration on terms including, but not limited to, being subject to heightened supervision;

F. Nothing herein is intended to or shall be construed to replace, supersede or override, with respect to Respondent, federal securities laws, rules and regulations of the rules of any self-regulatory organization; and

G. Respondent Mayar agrees that, upon issuance of an Order by the Division that contains the terms as set forth above, if he fails to comply with any of the terms set forth in the Division's Order, the Division may institute an action to have this agreement declared null and void. Upon issuance of an appropriate order, after a hearing, the Division may re-institute the actions and investigations that it had brought against the Respondent.

VIII. WAIVER

Respondent Mayar hereby waives any right to file an answer in response to the Consent Order entered pursuant to this Offer, any right to hearing, to written findings of fact, conclusions of law, to any other process provided by statute or otherwise, and to judicial review of the Consent Order entered pursuant to this Offer.

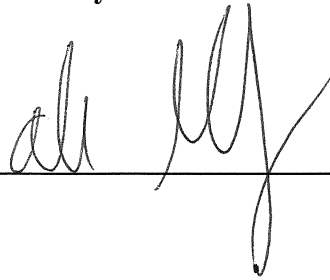
IX. AUTHORITY

Respondent Mayar hereby states that the tender of this Offer is a voluntary act on his part, that he has the power and authority to tender and execute this Offer and that he has had an opportunity

to consult legal counsel regarding the terms and conditions of this Offer.

Ali Habib Mayar

By: _____

A handwritten signature in black ink, appearing to read 'Ali Habib Mayar', is written over a horizontal line. The signature is stylized and cursive.

Dated: December 21, 2015