FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

Department of Enforcement, Complainant, v. ARI Financial Services, Inc. CRD No. 137608 and William Brian Candler, CRD No. 2802438 Respondents.	DISCIPLINARY PROCEEDING No. 2010023883601

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. ARI Financial Services, Inc. (ARI or the Firm), a FINRA member firm, and William Brian Candler, the Firm's President and former Chief Compliance Officer (CCO), facilitated at least ten private placement offerings (collectively, the Private Placements) during the period from September 1, 2009 to December 31, 2012 (the Relevant Period). ARI had at most two employees during the Relevant Period. Although ARI's specific role in the Private Placements varied, its business model was essentially consistent across the offerings. ARI registered full-time employees of the Private Placement issuers as independent contractors for the Firm to conduct its wholesaling and marketing activities for the offerings (issuer-reps).

2. Additionally, ARI registered the issuers' headquarters as Offices of Supervisory

Jurisdiction (OSJ) or non-OSJ branch offices, and designated one or more members of the issuers' staff as persons with compliance responsibilities for these offices. ARI relied on these designated persons to carry out supervisory responsibilities for the Firm. Effectively, the Private Placement issuers' employees were registered by ARI to promote and sell their employers' securities, and were designated by ARI to supervise wholesaling activities conducted at their offices.

3. The Firm failed to establish and maintain a supervisory system reasonably designed to ensure that delegated supervisory responsibilities were properly exercised by Private Placement issuers' employees. Candler was the registered principal responsible for establishing, maintaining and enforcing the Firm's written supervisory policies and procedures (WSPs) during the Relevant Period.

4. As a result of the deficiencies in its supervisory system, ARI failed to identify and prevent the dissemination of misleading and imbalanced advertising and sales materials by the issuer-reps and failed to ensure that the offering materials prepared and distributed by the issuer-reps contained sufficient and accurate disclosures. The Firm also failed to prevent the general solicitation of unregistered securities offered under the Regulation D Rule 506 exemption.

5. Additionally, Candler failed to conduct reasonable due diligence regarding a Private Placement that ARI sold directly to retail investors. The offering was later discovered to be a Ponzi scheme. At least seven Firm customers who purchased interests in the offering from an issuer-rep lost their collective investment principal of approximately $560,000.

6. During the Relevant Period, Candler provided medallion signature guarantees, an industry tool used to guarantee the authenticity of investor signatures appearing on securities transfer documents, for numerous pre-signed securities assignment forms without having the

forms signed in his presence or otherwise verifying their authenticity. At this point, Candler had not established any supervisory system for the Firm's medallion signature guarantee program. Following the receipt of a complaint that Candler improperly provided signature guarantees in connection with certain securities transfers, Candler established WSPs governing the Firm's activities as a guarantor. However, the Firm's procedures still did not require ARI to verify the authenticity, authority, and capacity of the signatory on a securities transfer form before providing a medallion guarantee.

7. Candler failed to retain and review business-related correspondence. He also failed to establish appropriate escrow accounts for two contingent offerings.

8. As a result of Candler's failure to adopt a reasonable supervisory system and to establish, maintain and enforce reasonable WSPs, the Firm violated NASD Rule 3010 (Supervision), FINRA Rule 2010 (Standards of Commercial Honor and Principles of Trade), NASD Rule 2210 (Communications with the Public), NASD Rule 2310 (Recommendations to Customers (Suitability)), NASD Rule 3110 (Books and Records), Section 17(a) of the Securities Exchange Act of 1934 (Exchange Act) and SEC Rule 17a-4 promulgated thereunder (Records to be Preserved by Brokers-Dealers).

9. As a result of his own failure to adopt a reasonable supervisory system and to establish, maintain and enforce reasonable WSPs, Candler violated NASD Rule 3010 (Supervision), FINRA Rule 2010 (Standards of Commercial Honor and Principles of Trade), NASD Rule 2210 (Communications with the Public), NASD Rule 2310 (Recommendations to Customers (Suitability)), and NASD Rule 3110 (Books and Records).

10. Candler's improper provision of medallion signature guarantees constituted a violation of FINRA Rule 2010 for both him and the Firm. Candler's failure to create and enforce

reasonable procedures concerning the Firm's provision of medallion signature guarantees constituted violations of NASD Rule 3010 and FINRA 2010 for both him and the Firm.

11. ARI's failure to establish proper escrow accounts for two of the Private Placements violated Section 15c of the Exchange Act and SEC Rule 15c2-4 promulgated thereunder.

RESPONDENTS AND JURISDICTION

ARI

12. ARI, a FINRA member firm since 2005, derived most of its revenue during the Relevant Period as a wholesaler of private placements that it marketed to retail broker-dealers who, in turn, sold interests in these offerings to retail investors. In at least one instance during the Relevant Period, ARI sold interests in a private placement directly to investors.

13. At all times during the Relevant Period, ARI's main office was located in Kansas. At certain points during the Relevant Period, ARI had registered up to five branch offices and over 30 registered representatives located in six different states.

14. ARI is currently owned by Candler and two other individuals, B1 and B2. Candler is ARI's majority owner.

15. For the majority of the Relevant Period, Candler was the sole full-time registered employee at ARI's Kansas headquarters. He occasionally received assistance from part-time personnel.

Candler

16. Candler entered the securities industry in 1996 and since that time has been associated with seven present and former FINRA member firms, including ARI and Other BD, where he continues to be associated.

17. Candler obtained his Series 4 (Registered Options Principal), Series 7 (General Securities Representative), Series 24 (General Securities Principal), Series 27 (Financial and Operations Principal), Series 63 (Uniform Securities Agent) and Series 65 (Uniform Investment Adviser) securities licenses between 1996 and 2009.

18. Candler is currently registered with FINRA as a registered representative through his association with the Firm and therefore remains subject to FINRA's jurisdiction for purposes of this proceeding pursuant to Article V, Section 4 of FINRA's By-Laws. ARI is currently a FINRA member firm and is therefore subject to FINRA's jurisdiction for purposes of this proceeding pursuant to Article IV, Section 6 of FINRA's By-Laws.

FACTUAL BACKGROUND

I. ARI's Business: Private Placements

19. During the Relevant Period, ARI facilitated the sale of the Private Placements in the capacity of a: (i) wholesaler, (ii) managing broker-dealer and/or (iii) retail broker-dealer. Its most common role was that of wholesaler.

20. In each capacity, ARI performed an integral role in facilitating the sale of securities, but sold securities directly to retail investors only in its capacity as a retail broker-dealer.

A. ARI as "Wholesaler" and "Managing Broker-Dealer"

21. In its capacity as a wholesaler, ARI registered issuer-reps to act as wholesaling brokers who performed marketing services on behalf of Private Placement issuers. The issuer-reps marketed the offerings to broker-dealers who in turn sold the units or shares directly to retail customers. The issuer-reps, who were employees of the Private Placement issuers or their affiliates, were considered "independent contractors" for ARI.

22. The issuer-reps promoted the Private Placements to soliciting broker-dealers individually and at industry conferences, and provided ongoing marketing services and support to these broker-dealers while the offerings were being sold.

23. ARI paid sales commissions to issuer-reps with funds provided by the issuers of the Private Placements.

24. During the Relevant Period, ARI acted exclusively as a wholesaler for four real-estate-based Private Placements sponsored by Issuer A (collectively, the Issuer A Funds): (1) Issuer A – Fund 1; (2) Issuer A – Fund 2; (3) Issuer A – Fund 3; and (4) Issuer A – Fund 4.

25. For some of the Private Placements that ARI wholesaled during the Relevant Period, the Firm also acted as the managing broker-dealer.

26. As managing broker-dealer, ARI took on slightly broader responsibilities than it did as wholesaler, including ensuring that escrow accounts were properly established for contingency offerings.

27. As detailed below, ARI acted as the managing broker-dealer for six offerings that it also wholesaled during the Relevant Period:

Fund Name	Issuer/Sponsor	Securities Product Type
Issuer B Fund	Issuer B	Commercial real estate-secured equity securities investing in self-storage, recreational vehicle parking and similar facilities.
Issuer C – Fund 1	Issuer C	Real estate-secured debt securities investing in loans and mortgage-related assets.
Issuer C – Fund 2	Issuer C	Real estate-secured debt securities investing in loans and mortgage-related assets.
Issuer D – Fund 1	Issuer D	Delaware Statutory Trusts investing in Life Settlements and Structured Settlements.
Issuer D – Fund 2	Issuer D	Delaware Statutory Trusts investing in Life Settlements and Structured Settlements.
Bridgeport Oaks Fund, LLC	Michael Franks, LLC d/b/a Lanis Securities	Tenant-In-Common offering

B. ARI as Retail Broker-Dealer

28. During the Relevant Period, ARI recommended and sold interests in a real estate-based private placement called the Bridgeport Oaks Fund directly to investors, in addition to its role as a managing broker-dealer for the offering.

II. ARI's Retail Sale of the Bridgeport Oaks Fund

A. Employees of the Issuers Sold the Fund as Registered Representatives of ARI

29. During the Relevant Period, the Firm added Lanis Securities as a branch office of ARI (LS branch office). Lanis Securities was owned by Michael Franks LLC (MF LLC), the issuer of the Bridgeport Oaks Fund.

30. The Firm registered and hired as "independent contractors" two individuals who worked at the LS branch office to sell the Bridgeport Oaks Fund directly to retail investors.

31. MF LLC, the issuer of the Bridgeport Oaks Fund, was doing business as LS Securities. The "independent contractors" that ARI Registered to sell the Bridgeport Oaks Fund to retail investors were employees of MF LLC, the Fund's issuer.

B. ARI Conducted Minimal Due Diligence before Selling the Bridgeport Oaks Fund

32. ARI relied chiefly on information provided and/or paid for by MF LLC in conducting its due diligence investigation of the Bridgeport Oaks offering.

33. ARI's due diligence file for the Bridgeport Oaks Fund contained two due diligence reports prepared by third-parties (hereinafter Due Diligence Report A and Due Diligence Report B).

34. The author of Due Diligence Report A, a two-page letter, stated that it did not review any financial statements or tax returns for the sponsor's prior real estate programs. In

addition, Due Diligence Report A was drafted before the sponsor finalized the terms of the offering.

35. Due Diligence Report B, which was paid for by MF LLC, was addressed to another third-party broker-dealer (not ARI) and contained the following disclaimer: "No party will be entitled to rely on this opinion, and we will have no liability to any broker-dealer, registered representative, client or prospective client unless such party is specifically named as the addressee of this opinion or received written confirmation from our law firm that such party or parties may specifically rely hereon." Under these circumstances, ARI could not reasonably rely on this report as part of its due diligence investigation.

36. Nonetheless, Due Diligence Report B did raise several red flags about the Bridgeport Oaks Fund issuer, including a possible violation of Regulation D's prohibition of general solicitations, as well as the fact that several principals and property managers of the Bridgeport Oaks Fund had previously filed for bankruptcy.

37. Due Diligence Report B also noted that only one of seven investment properties that the issuer proposed to generate interest payments to investors was in a financially stable position to make such payments, and that the Company's assets "should be a cause of investor concern."

38. Candler failed to conduct a reasonable investigation of the red flags raised by the two due diligence reports, and did not perform a reasonable independent due diligence investigation prior to the Firm's sales of the Bridgeport Oaks Fund.

39. Candler did not visit the LS branch office, which was an office of MF LLC, or examine MF LLC's books and records before permitting ARI registered representatives to sell the Fund.

40. Candler also failed to conduct a reasonable investigation of questionable payments from the Bridgeport Oaks Fund's bank account including "loans" to MF LLC and insufficient-funds charges in the Fund's bank account before and during the offering period.

41. In September 2009, nearly two months before the issuer-reps at LS Securities began enrolling ARI customers into the Bridgeport Oaks Fund; Candler expressed concern that the issuer's marketing practices might be considered general solicitations in violation of securities laws.

42. Notwithstanding these red flags, Candler did not conduct additional investigation into the marketing practices at LS Securities before approving its staff to sell the Bridgeport Oaks Fund issued by the owners of LS Securities.

43. On December 2, 2009, before ARI accepted investments from eight investors, the owners of the Bridgeport Oaks Fund and its affiliates were issued a Temporary Order of Prohibition ("TOP") by the Illinois Securities Department prohibiting them from selling securities in or from the State because they had made general solicitations of unregistered securities in 2006, 2007 and 2009. The TOP was served on the LS branch office on or around December 8, 2009 and again on or around December 14, 2009. However, ARI continued to sell interests in the offering to customers after it was served with the TOP.

44. Had Candler conducted an adequate due diligence investigation of the Bridgeport Oaks Fund, he might have learned the owners of the Bridgeport Oaks Fund and its affiliates had improperly engaged in general solicitations of investors for the purpose of selling unregistered securities in Illinois. Moreover, had Candler appropriately supervised the LS branch office, he would have been aware that at the time ARI sold interests in the Fund to four investors, the issuer and its affiliates had been prohibited from selling securities in the state.

C. ARI's Supervisory Procedures Concerning Due Diligence

45. The Firm's WSPs required ARI to conduct a due diligence investigation before offering for sale any securities in a Private Placement. Specifically, the WSPs designated Candler with responsibility for coordinating the due diligence investigation of offerings sold by the Firm as a retail broker-dealer.

46. However, the WSPs failed to specify what investigative steps would be taken to perform a due diligence investigation. Additionally, the WSPs did not identify how the Firm would document its due diligence review, apart from merely stating that a due diligence file was required to be maintained for each offering.

47. The WSPs stated that the Firm could rely on third-parties for assistance in performing due diligence, but did not include any procedures for supervising those third parties or addressing any concerns or red flags raised by such third parties.

D. ARI Sold the Bridgeport Oaks Fund to at Least Seven Customers

48. During the period from December 2009 through February 2010, the Firm through its issuer-reps at LS Securities, sold interests in the Bridgeport Oaks Fund to at least the following seven investors in violation of the TOP:

i. Customer A, through his IRA, invested approximately $59,000 on or around December 4, 2009.

ii. Customer B, through her IRA, invested approximately $54,000 on or around December 4, 2009.

iii. Customer C, through his IRA, invested approximately $85,000 on or around December 4, 2009.

iv. Customer D invested approximately $60,000 on or around December 22, 2009.

v. Customer E, through his Individual Retirement Account (IRA), invested approximately $30,000 on or around January 25, 2010.

vi. Customer F, through "L" LLC, invested approximately $150,000 on December 28, 2009.

vii. Customer G, through her IRA, invested approximately $125,000 on or around February 26, 2010.

E. Financial Problems at the Issuer

49. In early March 2010, Candler received correspondence from an issuer-rep at the LS branch office informing him that the owners of the Bridgeport Oaks Fund decided to stop funding the infrastructure of LS Securities and that he and another employee might not survive the week.

50. Two days later, Candler received correspondence from the same registered representative indicating that the Bridgeport Oaks Fund's owners were experiencing capital issues and had instructed him (and others) to "a) locate another sponsor/funding source & b) show momentum on Bridgeport or else."

51. Notwithstanding the receipt of information concerning financial problems at the issuer, Candler did not instruct ARI's registered representatives to stop marketing the Fund to retail customers.

52. On or around December 7, 2010, Candler received correspondence informing him that owners of the Bridgeport Oaks Fund had transferred MF LLC, its real estate projects, and its investment funds to a third party "Company." The Company was to act as a private

trustee/receiver for MF LLC because MF LLC faced millions in debt on its projects and funds, including investor LLCs.

F. Bridgeport Oaks Fund is Revealed as Being Part of a Ponzi Scheme

53. In 2011, the Bridgeport Oaks Fund owners were charged by the U.S. Attorney in the Northern District of Illinois and subsequently pled guilty to federal mail and wire fraud charges in connection with the Bridgeport Oaks Fund, among others, because it operated as part of a Ponzi scheme. The two defendants were ordered to serve prison sentences and to pay restitution of over $18 million dollars to investors who lost their investment principal, including ARI customers.

III. ARI's Business Model as a Wholesaler

A. Delegation of Supervisory Authority to Issuer Employees

54. As described above, the Firm delegated wholesaler-related supervisory responsibilities to individuals at the offices of the issuers ARI serviced and relied upon these individuals to carry out certain of the Firm's supervisory and compliance functions.

55. Candler appointed certain employees of the Private Placement issuers as Branch Office Managers (BOMs) and supervisory principals for ARI for the purposes of conducting supervisory and marketing and sales activities for the issuers' Private Placements, at the issuers' offices.

B. Delegated Supervisor at Issuer A

56. ARI registered the business headquarters of Issuer A as a Firm branch (the Issuer A branch). Four private placements (collectively, the "Issuer A Funds") were wholesaled by Issuer A issuer-reps.

57. During the Relevant Period, Candler delegated B3, Issuer A's Regional Vice

President, as the designated supervisor of the Issuer A branch office. As such, B3 was responsible for the supervisory review and approval of advertising and sales literature.

58. B3 approved certain marketing materials that he and other issuer-reps at Issuer A used and distributed.

59. The Issuer A issuer-reps attended sales meetings and dinners with soliciting brokers to whom the Issuer A Funds were being marketed. Prospective investors were sometimes in attendance at these events.

C. Delegated Supervisors at Issuer C

60. ARI registered the business headquarters of Issuer C's offering sponsor as a Firm OSJ branch (the Issuer C OSJ Branch). The Issuer C funds were wholesaled from the Issuer C OSJ Branch.

61. Candler appointed the President of the Issuer C funds sponsor to be the Branch Manager of the Issuer C OSJ Branch. The CCO of Issuer C's sponsor was also designated by Candler to be a registered principal of the Issuer C OSJ Branch.

62. Candler delegated certain compliance and supervisory responsibilities to the issuer employees referenced above in paragraph 61 to ensure compliance with applicable rules and regulations.

D. Delegated Supervisor at Issuer B

63. The Firm registered the business headquarters of Issuer B as an ARI OSJ branch in California (the Issuer B OSJ branch). ARI wholesaled the Issuer B Fund from the Issuer B OSJ branch.

64. During the Relevant Period, Candler appointed GG, Issuer B's Director of Compliance and Operations, to be the Branch Manager of the Issuer B OSJ branch.

65. As the Issuer B OSJ Branch Manager, GG was responsible to supervise all registered employees including B1 and B4, CEO and President of Issuer B, respectively.

66. In addition to GG, Candler relied on the principals of Issuer B to vet the accuracy and completeness of Issuer B's offering materials.

67. B1 and B4 were GG's employers at Issuer B.

68. B1 and B4 were also direct owners of ARI (owning approximately 12.5% each).

E. ARI's Supervision of Wholesaling Activities

69. According to the Firm's WSPs, offsite ARI branch managers were responsible for reviewing the following documents "as needed": (i) advertising and sales literature; (ii) private placement offering memoranda (PPMs); (iii) PPM supplements; and (iv) "required branch office files."

70. The WSPs did not include specific instructions to ensure that the supervisory responsibilities Candler had delegated to branch officer personnel were properly exercised.

71. The WSPs did not specify what circumstances triggered the "as needed" review of the referenced documents.

72. With respect to the supervision of offering materials (PPMs and supplements):

a. the WSPs were silent as to what information the branch office personnel should be looking for during their document review or what, if any, content standards were to be met in these documents.

b. The WSPs did not require branch office personnel to take any steps to ensure that representations made in the offering materials were accurate.

c. The WSPs did not provide any instruction for the escalation or remediation of any problematic content identified during these reviews.

d. The WSPs also did not include any information as to how Candler would monitor branch office personnel's implementation of this delegated responsibility.

73. With respect to the supervision of advertising and sales literature:

a. The WSPs simply required that advertisements and sales literature be approved by branch office managers and stated that the content of this material should apply with applicable rules.

b. Although the WSPs stated that approved sales material should be filed within the Firm's files, they did not require branch officer managers to document their approval (or rejection) of sales material.

c. The WSPs did not provide any instruction for the escalation or remediation of any problematic content identified during the approval process, or any description of the approval process. They did not require branch office managers to document the dates during which approved marketing materials were in use.

d. The WSPs also did not include any information as to how Candler would monitor branch office managers' implementation of this delegated responsibility.

IV. ARI's Use of Sales & Advertising Material to Market Private Placements

A. The Issuer A Funds Communications

74. Candler and his delegated supervisors approved and permitted ARI's issuer-reps to use and disseminate sales and advertising materials for the Issuer A Funds to other broker-dealers.

75. During the Relevant Period, the issuer-reps used and disseminated sales and advertising materials, including during meetings or presentations that were attended by soliciting brokers, and sometimes, prospective investors.

76. As detailed in Exhibit A, Rows 1-3, certain sales and advertising materials for the Issuer A Funds failed to: (i) provide adequate risk disclosures; (ii) provide a sound basis for claims about competitors (iii) provide a sound basis for claims about the performance of the funds and similar funds; (iv) prominently display risk disclosures; and/or (vi) relied upon disclosures in other documents.

77. As detailed in Exhibit A, Rows 4-8, certain sales and advertising materials for the Issuer A Funds failed to: (i) define certain terms and features of the funds; (2) provide a sound basis for claims about the funds' historical returns; and/or (3) provide balanced disclosures about the issuer's diversification abilities.

78. As detailed in Exhibit A, Rows 9-11, certain sales and advertising materials for the Issuer A Funds contained: (i) investment objectives that were inconsistent with the objectives stated in the PPM; (ii) misleading promises of investment success; and/or (iii) unsubstantiated descriptions of prior fund performance.

79. As detailed in Exhibit A, Row 12, certain sales and advertising materials for the Issuer A Funds implied that the past performance of the funds guaranteed that they would perform similarly in the future.

80. As detailed in Exhibit A, Row 13, certain sales and advertising materials for the Issuer A Funds failed to disclose that securities were offered through ARI.

B. The Issuer B Fund Communications

81. In connection with ARI's marketing of the Issuer B Fund, Candler and his delegated supervisors approved and permitted ARI's issuer-reps to use and disseminate sales and advertising material to other broker-dealers.

82. ARI's issuer-reps at Issuer B also published information about the Issuer B Funds on a website that they controlled and that was publically accessible.

83. The sales and advertising material used by Issuer B issuer-reps included summaries and descriptions of the Issuer B Fund and its features, including the properties it had acquired or planned to acquire to generate income.

84. As detailed in Exhibit A, Row 14, certain sales and advertising material for the Issuer B Fund described the benefits of investing in the Fund without providing a balanced discussion of the risks, including that the reported investment objectives were not guaranteed. These materials also did not disclose the costs, fees, and expenses associated with the Issuer B Fund.

85. As detailed in Exhibit A, Row 15, certain sales and advertising material for the Issuer B Fund failed to (i) disclose the speculative nature of the offering; (ii) identify the substantial risks described in the PPM and corresponding supplements, including that the Fund Manager was newly formed, had no history of operations, and had limited capital; and/or (iii) disclose that certain prior investment programs involving principals in the Fund's management, who were Candler's co-owners of ARI, had experienced adverse results including the loss of all or a portion of some investors' capital.

86. As detailed in Exhibit A, Row 2, certain sales and advertising material for the Issuer B Fund displayed material disclosures in small font and in locations on the page where

they were less likely to be noticed.

87. As listed in Exhibit A, Row 12 certain sales and advertising material for the Issuer B Fund contained improper performance projections.

C. The Issuer Cs Marketing Materials

88. In connection with ARI's marketing of the Issuer C-Fund 1 and Issuer C-Fund 2 (collectively, the Issuer C funds), Candler and his delegated supervisors approved and permitted ARI's issuer-reps to use and disseminate sales and advertising material to other broker-dealers.

89. These materials included summaries of the funds and a description of the investment product that was offered.

90. As detailed in Exhibit A, Row 16, certain sales and advertising material for the Issuer C funds contained only generalized risk disclosures and provided misleading and unsubstantiated projections of "target returns." These materials included a "hypothetical example" illustrating that the funds would generate a 9.2% annual yield; without providing a sound basis for evaluating the suggested returns.

91. Certain of the material listed in Exhibit A, Row 16 also included a misleading statement that "[l]eaving out alternative investments may expose portfolios to greater risk."

D. ARI's Supervision of Sales & Advertising Materials

92. ARI was responsible for the review and approval of advertising and sales literature used and distributed by the issuer-reps it employed to wholesale private placements.

93. ARI maintained WSPs for the review and approval of advertising and sales literature, including PPMs, e-mail, websites, advertising and sales materials that the Firm's issuer-reps used and distributed to other broker dealers and investors. These procedures required that the material be reviewed and approved by a branch manager.

94. In this capacity as the Firm's CCO, Candler sometimes reviewed and approved promotional materials himself. In other instances, Candler delegated the responsibility to review and approve communications and promotional materials to the issuer-reps who acted as OSJ branch managers or other registered principals of the Firm.

95. In certain instances, ARI's WSPs prohibited the Firm's issuer-reps from distributing sales and advertising material directly to investors.

96. ARI's procedures, however, were insufficiently specific to ensure that the supervisory review of the content, use, and distribution of Private Placement promotional material was being properly performed.

V. Documentation of Approval of Advertising Material

A. ARI's Procedures Regarding Documentation

97. Although the Firm's WSPs required a principal to approve advertising and sales literature and that these materials be filed in a central advertising and sales literature file, the Firm's WSPs did not require a principal to approve by signature or initial and date each advertisement, item of sales literature, and independently prepared reprint before the earlier of its use or filing with Advertising Regulation.

98. The Firm's procedures also did not ensure that the Firm documented the date of first and, if applicable, last use of such material.

B. ARI's Documentation

99. During the Relevant Period, the Firm's files did not include written approvals of each piece of advertising or sales literature, or the dates of first and last use.

VI. ARI's Medallion Signature Guarantee Program

A. ARI Provided Medallion Signature Guarantees as a Service to Issuer A

100. In January 2010, Candler applied to the Securities Transfer Association Medallion Program (STAMP), on behalf of ARI, for a medallion signature guarantee stamp.

101. The signature guarantee program, as defined by the Exchange Act Rule 17 Ad-15, is relied upon by securities transfer agents in order to "promot[e] the prompt, accurate and safe transfer of securities" by, providing, among other things, "adequate protection to the transfer agent against the issuance of unauthorized guarantees."

102. A signature guarantee constitutes a warranty that, at the time of signing: (a) the signature was genuine; (b) the signer was an appropriate person to sign, or an agent that had actual authority to act on behalf of the appropriate person; and that (c) the signer had legal capacity to sign.

103. In other words, by providing a medallion signature guarantee, a guarantor is certifying that the signer executed the document in the presence of the Medallion Guarantor, or that the guarantor has otherwise verified that the signer was the named owner of the security (or reviewed documentation establishing legal ownership), and that the signer was of sound mind when he or she signed the securities transfer form.

104. On ARI's behalf, Candler entered into a subscription agreement with Stamp Company, a STAMP Program Administrator that is recognized and approved by the financial industry and endorsed by the Securities Transfer Association.

105. Stamp Company provides guarantors with equipment and requires guarantors to complete certification training on the relevant legal requirements of Section 8-306 of the Uniform Commercial Code and best practices for guarantors, which includes having the

securities transfer form signed in the presence of the guarantor.

106. ARI's subscription agreement with Stamp Company also required Candler to "strictly comply with all procedures for STAMP promulgated by the Program Administrator."

107. Candler completed Stamp Company's STAMP guarantor certification program and was thus aware of both the requirements imposed upon him by UCC Section 8-306 and the program's guidance for best practices.

108. Even so, between January and July 2010, ARI did not establish any supervisory procedures governing its actions as a medallion signature guarantor; though it provided signature guarantees for numerous securities transfers.

109. During this seven-month period, Issuer A (a private placement issuer for whom ARI provided medallion stamp services) routinely forwarded to Candler pre-endorsed securities assignment forms from investors so that Candler would affix a medallion stamp to these documents.

110. After receiving these forms in the mail, Candler provided medallion signature guarantees and returned the forms to Issuer A by mail; in order to facilitate the transfer of privately-held interests in non-traded real estate investment trusts (REITs) to Issuer A from certain individual investors.

111. Specifically, during the Relevant Period, and as listed in Exhibit B, Candler applied the medallion stamp and his own signature to 22 securities assignment forms he had received from Issuer A, none of which was executed by the assignor in his presence.

112. Moreover, ARI did not have procedures in place to verify that the endorser's signature was genuine, that the endorser was an appropriate person to sign the form, and that the endorser had legal capacity to sign the form.

B. ARI Receives Complaints about the Medallion Program

113. In or around July 2010, Candler received a letter (the July 2010 letter) from an attorney alleging that Candler had improperly provided medallion guarantees for the sale of certain investors' securities to Issuer A.

114. The July 2010 letter cited at least three instances where Candler had improperly provided signature guarantees to facilitate transfers of securities, including one where the record holder may not have had legal capacity to transfer the interests and another where the signor did not have legal authority to act on behalf of the record holder.

C. ARI Continues the Medallion Program and Adds Deficient Procedures

115. Candler conferred with B1 (a direct owner of ARI and President of Issuer B) about whether or not ARI should continue acting as a guarantor, and provided B1 with a memo from Issuer A assuring ARI that it faced minimal risks from the program.

116. B1 stated that it "look[ed] fine" and asked whether Issuer A would indemnify ARI in the event of a lawsuit.

117. Issuer A had agreed to indemnify ARI for liability arising out of its role as a guarantor and ARI continued to operate as a signature guarantor.

118. In late 2010, Candler adopted WSPs for the Firm's Medallion Signature Guarantee program, based upon recommendations from Issuer A.

119. Contrary to the training Candler received and industry best practices, the Firm's procedures made it optional to have the securities transfer document executed in ARI's presence. As drafted, the new procedures did not actually provide for the verification of the identity of the signor, his/her intent, and his/her capacity to transfer securities.

120. After July 2010, Candler continued to provide medallion signature guarantees for

securities assignment forms provided to him by Issuer A without requiring (1) that the documents be executed in his presence or (2) documentation that would enable him verify the authenticity, authority and capacity of the signor at the time of signature. These actions were inconsistent with the STAMP program recommendations and industry practices.

VI. Retention and Review of E-mail

A. ARI Did Not Retain and Review All Electronic Business Communications

121. Once issuer-reps became registered with the Firm, all of their securities-related e-mail communications transmitted to or from their respective e-mail accounts were required to be captured and retained by a third-party electronic media storage provider retained by the Firm. However, in connection with at least seven issuer-reps, there were gaps of at least 13 days between the dates that they became associated with ARI and the date that the Firm notified its vendor to start capturing their e-mail correspondence, even though these reps used their e-mail accounts for business-related communications during these periods.

122. As a result, the Firm did not capture and retain all of its issuer-reps' business related communications during the Relevant Period.

123. In addition, certain issuer-reps used additional e-mail addresses maintained away from the Firm for business-related correspondence.

124. Because it failed to retain all business related communications, the Firm also was unable to conduct a supervisory review of its employees' business-related communications.

B. ARI's Procedures Relating to E-mail Retention and Review

125. During the Relevant Period, the Firm's WSPs prohibited its registered representatives from using any e-mail addresses other than ARI's e-mail address.

126. The WSPs concerning e-mail communication with the public required outgoing

and incoming e-mails to be stored and available for review.

127. The WSPs did not require that all correspondence be reviewed prior to use or distribution.

128. The WSPs did not include provisions for the education and training of associated persons as to the Firm's procedures governing correspondence; documentation of such education and training; and surveillance and follow-up to ensure that these procedures were implemented and adhered to.

129. The Firm's WSPs did not provide guidance as to how many or how frequently e-mails should be reviewed. They also did not require the documentation of supervisory correspondence review.

130. The WSPs did not contain any procedures related to the investigation or escalation of any red flags identified during the course of a supervisory e-mail review.

VII. Improper Escrow Accounts

A. Escrow Funds Invested in Money Market Securities

131. During the Relevant Period, ARI permitted customer funds that were being kept in escrow for two contingent offerings to be invested in money market mutual funds.

132. Subscription payments submitted by investors in the Issuer B Fund were transmitted to an escrow account at Bank 1. This account had a money market sweep feature where excess cash was invested into shares of money market securities at the end of each day. Once deposited into the escrow account, Issuer B Fund investors' funds were automatically swept from the Issuer B Funds escrow account and invested in money market securities.

133. The prospectus for the Bank 1 money market account clearly stated that the money market account was not a bank deposit and the fund was not insured or guaranteed by the

Federal Deposit Insurance Corporation or any other government agency. The prospectus further disclosed that "[a]lthough the Fund seeks to preserve the value of your investment at an NAV of $1.00, it is possible to lose money by investing in the Fund."

134. Funds submitted to ARI by investors in Issuer D – Fund 2 were similarly deposited into an escrow account at Bank 2 and automatically swept into money market securities.

B. ARI's Escrow Procedures

135. The Firm's WSPs during the Relevant Period simply required Candler to "assure" that any escrow agreements used in a contingency offering complied with Exchange Act Rule 15c2-4, which requires broker-dealers to promptly deposit investor funds for contingency offerings into separate bank accounts, as agent or trustee for the investors, or into a separate escrow account at a bank, until the contingency has occurred. The WSPs were silent on the types of permissible investments in escrow accounts under the rule.

VIV. The Issuer B Fund

A. Basics of the Fund

136. The Issuer B Fund was formed for the principal purpose of acquiring, either directly or through joint ventures, self-storage, recreational vehicle parking and similar facilities located throughout the United States. The Issuer B Fund was offered for sale to investors pursuant to the exemption provided under Regulation D Rule 506.

B. Distribution of Incomplete Offering Materials

137. On at least 30 occasions during the time the Issuer B Fund was sold, a registered representative at Issuer B provided electronic copies of the PPM for the Issuer B Fund to third parties, including broker-dealers, with the goal of generating additional investments in the

offering. However, the registered representative did not include the supplements to the PPM that had been issued to date.

138. In the same correspondence, the registered representative provided a description of the fund that emphasized B5's background and accomplishments, and also provided electronic copies of sales and advertising material for the Issuer B Fund.

139. As described *infra* at ¶¶144-162, the supplements to the PPM contained important disclosures, such as the filing of lawsuits against B5, a principal of the issuer. It was ARI's policy that supplements were to accompany the PPM at all times.

140. The transmission of the PPM with other sales and advertising materials that promoted the Issuer B Fund, without also supplying the supplements that contained material information, was misleading and imbalanced.

141. Candler shared responsibility with GG, the BOM at the Issuer B branch office, to review and approve advertising and sales material.

142. Candler was solely responsible for monitoring outgoing e-mail correspondence for all registered representatives at the Issuer B branch office.

143. Because Candler failed to properly supervise the use of advertising materials and correspondence at Issuer B, these incomplete and misleading communications were made via e-mail, undetected, at least 30 times.

C. Omissions in the Issuer B Fund Offering Materials

144. During the Relevant Period, the Firm's WSPs delegated responsibility to the Issuer B BOM to review the PPM and supplements for accuracy and completeness.

145. In practice, Candler also participated in the preparation and review of disclosures related to the Issuer B offering, including the PPM and its supplements.

146. In doing so, Candler relied upon the managers of the Fund's issuer, some of whom are direct owners of ARI, to ensure the accuracy and completeness of the PPM and supplemental disclosures.

147. Several weeks after the issuance of the Issuer B Fund PPM, one of the officers of the Issuer B Fund, B5, was named as a defendant in a civil suit that alleged, among other things, intentional misrepresentation and breach of contract, in connection with investments in certain self-storage properties syndicated by SBE — an entity that B5 was associated with.

148. Also named in the suit was MPAA, the company that was designated as the property manager in the Issuer B offering. MPAA was owned, in part, by B5 and was therefore an affiliate of the manager of the Issuer B Fund.

149. As property manager, MPAA was to provide a number of services for the Issuer B Fund that included asset-level accounting for the properties acquired by the Fund, the day-to-day management of the properties, and due diligence services in evaluating prospective property acquisitions.

150. Given its responsibilities, MPAA's ability to sufficiently carry out its functions as the Fund's property manager could directly impact the performance of the Issuer B Fund.

151. On or around December 15, 2010, the Issuer B Fund, through ARI, issued the First Supplement to the Private Placement Memorandum for the Issuer B Fund, disclosing that a lawsuit was filed against B5 and "certain other entities and individuals" in connection with certain self-storage investments at SBE.

152. The Supplement stated that the lawsuit alleged that SBE and its principals "concealed losses, commingled funds, and made distributions of capital."

153. The Supplement further stated that "this suit is not against the company, its

manager, or the principals of the manager other than ...[B5]. The company does not expect that this lawsuit will have a material impact on the company other than the diversion of some of ...[B5's] attention, but it is providing the supplement in the interest of full disclosure."

154. The Supplement did not disclose that MPAA, the property manager for the Issuer B Fund that was co-owned by B5 and SBE, was named as a defendant in the lawsuit. It also did not disclose that the plaintiff claimed to have lost at least $5 million resulting from conduct by the defendants.

155. From approximately December 2010 through February 2013, the Issuer B Fund through ARI issued eight supplements to the Fund's PPM. The Second Supplement, issued in June 2011, disclosed that the Issuer B Fund had hired a new property manager. None of the supplements to the PPM ever disclosed that the Fund's original property manager, an entity that was co-owned by B5, had been named in the lawsuit.

156. Candler was in a position to know that the property manager for the Issuer B Fund had been sued for intentional misrepresentation in connection with self-storage investments, but did not ensure that this information was disclosed to prospective investors during the subscription period.

157. The Second Supplement (issued in June 2011) stated that on May 16, 2011, a settlement agreement had been reached that resolved all claims against the managing member.

158. The Second Supplement stated that the settlement resolved civil lawsuits that had been filed against B5 and certain other entities on November 24, 2010 and February 2, 2011.

159. The Second Supplement contained the same description of the November 24, 2010 lawsuit that had been included in the First Supplement.

160. The description of the February 2, 2011 lawsuit stated only that the lawsuit

included similar claims to the first and was narrower in scope.

161. The February 2011 lawsuit against B5 had not previously been disclosed to prospective or actual investors from the time it was filed until June 2011, when the Second Supplement was issued.

162. Candler knew or should have known that a second lawsuit against a principal of the Issuer B Fund was material, but did not disclose this information to potential or existing investors for nearly five months, during which time ARI continued act as a wholesaler for this offering.

D. Radio Show Appearances by Issuer B Fund Principal

163. The Issuer B Fund was an unregistered offering sold under the exemption provided by Rule 506 of Regulation D.

164. Under Section 5 of the Securities Act, any securities offered for sale to the public must either be registered with the U.S. Securities and Exchange Commission or meet an applicable exemption from that registration requirement. Under certain circumstances, an issuer can claim an exemption from the registration requirements of the Securities Act by relying on an exemption provided by Regulation D Rule 506.

165. During the Relevant Period, among other requirements, in order to be eligible for the identified exemption, neither the issuer nor any person acting on behalf of the issuer was permitted to offer or sell the unregistered securities through the means of a general solicitation or general advertising, including by any broadcast over television or radio.

166. The majority of units of this unregistered offering were sold directly to customers by B6, a registered representative, owner and securities principal of B6 Securities, a FINRA member firm.

167. B5 was a 51% owner of the Issuer B Fund and was a registered representative of the Firm.

168. On or about December 10, 2010, shortly after the Issuer B Fund began accepting subscriptions, B5 and B6, the primary selling broker for the Fund, recorded material for a radio show. B5 was appearing as a guest on B6's nationally syndicated radio program, called "Bulletproof Your Financial Freedom," to discuss the benefits of investing in the self-storage industry.

169. During this pre-recorded broadcast, B5 and B6 spoke about the benefits of investing in self-storage. B5 and B6 made a number of statements that were designed to raise an interest in the Issuer B Fund, although the Fund was not mentioned by name. At several points during the show, B6 urged listeners to call in to his office number to receive information about B5's self-storage securities.

170. GG was designated as B5's supervisor by the Firm and both she and Candler had granted B5 approval to appear on a radio show with B6 to discuss the benefits of investing in self-storage.

171. On December 11, 2010, the recorded material was aired to a national audience through B6's radio show (the December 11th Broadcast).

172. Because B6 made a recommendation for listeners to invest in self-storage investments that B5 was selling and B6 solicited investors who were interesting in obtaining more information about the investments to call him, the show constituted a general solicitation of the Issuer B Fund.

173. During the December 11th Broadcast, B5's statements did not provide balanced treatment of the risks and potential benefits of investing in the Issuer B Fund. B5 failed to

adequately discuss the speculative nature of an investment in self-storage facilities, and the substantial risks listed in the Issuer B Fund PPM.

174. During the December 11th Broadcast, B6 and B5 implied that the Issuer B Fund held approximately 70 storage facilities located in approximately 12 states. This statement was misleading because the Fund, according to its disclosures at or around that time, had not yet made any property acquisitions.

175. B5 did not disclose during the December 11th Broadcast that he and the Issuer B Fund property manager had been named in a lawsuit relating to similar previous investments.

176. Shortly after the December 11th Broadcast, B5 circulated an e-mail to all Issuer B branch office staff acknowledging that the broadcast may have violated Regulation D's prohibition against general solicitations.

177. Still, B5 was permitted to appear on another B6 radio program several months later (the May 19th Broadcast).

178. B5's statements about the Issuer B Fund during the May 19th Broadcast were similarly imbalanced and failed to adequately discuss the speculative nature of investing in self-storage facilities or the substantial risks listed in the Issuer B Fund PPM.

179. During the December 11th and May 19th Broadcast, B5 presented self-storage facilities as investments that perform well in all economies, without providing a sound basis for that claim.

180. During the May 19th Broadcast, B5 made promissory and exaggerated claims about the future success of investments in self-storage which implied similar future success for the Issuer B Fund.

181. During the May 19th Broadcast, B5 also represented that investing in self-storage

was a "secure investment" that offered returns of approximately 6% to 7%.

182. B5 did not indicate during the May 19th Broadcast that the Issuer B Fund securities were being offered through ARI.

183. B5 did not disclose during the May 19th Broadcast that he had been named in two lawsuits or that the Issuer B Fund property manager had been the subject of a lawsuit relating to similar previous investments.

184. Because the radio shows were pre-recorded, Candler and GG could have listened to them and prevented them from being aired. They did not prevent the shows from airing.

E. ARI's Supervisory Procedures Relating to the Radio Broadcasts

185. The Firm's WSPs for advertising and sales literature required ARI's registered representatives to obtain approval prior to participating in radio broadcasts.

186. The WSPs did not specify conditions for approval or procedures for reviewing pre-recorded material prior to its airing.

187. The Firm's WSPs prohibited general solicitations in connection with Regulation D offerings but did not provide specific procedures for the prevention of general solicitations.

188. The Firm's WSPs for advertising and sales material are described *supra* at ¶¶ 69 - 73, 92 - 96.

CHARGES

FIRST CAUSE OF ACTION
Inadequate Due Diligence and Suitability
(NASD Rule 2310 and FINRA Rule 2010)
[ARI and Candler]

189. The Department re-alleges and incorporates by reference paragraphs 1 through 188 above.

190. NASD Rule 2310, as in effect throughout the Relevant Period, required that when

a FINRA member recommends to a customer the purchase, sale or exchange of any security, a member shall have reasonable grounds for believing that the recommendation is suitable for the customer based upon facts disclosed by the customer as to his financial situation and needs. Under NASD Rule 2310, a broker-dealer and its registered representatives must satisfy a "reasonable basis" suitability requirement, pursuant to which they must i) understand the recommended security or strategy and the risks involved; and ii) determine whether the recommendation is suitable for at least some investors.

191. According to FINRA Regulatory Notice 10-22, broker-dealers may not rely blindly upon the issuer, or upon information provided by the issuer, in lieu of conducting its own reasonable investigation of the security product at issue. At a minimum, a firm selling a Regulation D offering should conduct a reasonable investigation concerning: the issuer and its management; the business prospects of the issuer; the assets held by or to be acquired by the issuer; the claims being made; and the intended use of proceeds of the offering. Moreover, the presence of any red flags should alert the broker to conduct further inquiry.

192. As alleged *supra* in ¶¶ 32-44, 45-47, and 49-51, Candler failed to conduct an adequate due diligence investigation of the Bridgeport Oaks Fund. As a result, ARI lacked a reasonable basis to believe that the Bridgeport Oaks Fund was suitable for any investor.

193. In light of the foregoing, the Firm and Candler violated NASD Rule 2310 and FINRA Rule 2010.

SECOND CAUSE OF ACTION
Misleading and Other Violative Communications with the Public
(NASD Rules 2210, 2211 and FINRA Rule 2010)
[ARI and Candler]

194. The Department re-alleges and incorporates by reference paragraphs 1 through 193 above.

195. NASD Rules 2210 and 2211 established the content standards applicable to all communications with the public during the Relevant Period.

196. NASD Rule 2210(a)(1) defines an advertisement as any material, other than an independently prepared reprint and institutional sales material, that is published, or used in any electronic or other public media, including any Web site, newspaper, magazine or other periodical, radio, television, telephone or tape recording, videotape display, signs or billboards, motion pictures, or telephone directories (other than routine listings). NASD Rule 2210(a)(2) defines sales literature as any written or electronic communication, other than an advertisement, independently prepared reprint, institutional sales material and correspondence, that is generally distributed or made generally available to customers or the public, including circulars, research reports, performance reports or summaries, form letters, telemarketing scripts, seminar texts, reprints (that are not independently prepared reprints) or excerpts of any other advertisement, sales literature or published article, and press releases concerning a member's products or services.

197. NASD Rules 2210(d)(1)(A) and 2211(d)(1) require all FINRA broker-dealers' communications with the public to be based on principles of fair dealing and good faith, to be fair and balanced, to provide a sound basis for evaluating the facts in regard to any particular security or type of security, industry, or service, and to not omit material facts that would render the communication misleading.

198. NASD Rule 2210(d)(1)(B) prohibits false, exaggerated, unwarranted or misleading statements or claims in any communication with the public.

199. NASD Rule 2210(d)(1)(C) states that information contained in a public communication may be placed in a legend or footnote only in the event that such placement

would not inhibit an investor's understanding of the communication.

200. NASD Rule 2210(d)(1)(D) require that communications with the public may not predict or project performance, imply that past performance will recur or make any exaggerated or unwarranted claim, opinion or forecast. A hypothetical illustration of mathematical principles is permitted, provided that it does not predict or project the performance of an investment or investment strategy.

201. NASD Rule 2210(d)(2)(C) require that all advertisements and sales literature must: (i) prominently disclose the name of the member and may also include a fictional name by which the member is commonly recognized or which is required by any state or jurisdiction; (ii) reflect any relationship between the member and any non-member or individual who is also named; and (iii) if it includes other names, reflect which products or services are being offered by the member.

202. FINRA Rule 2010 states that "[a] member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade."

The Issuer A Materials

203. The Issuer A sales literature and advertising material described *supra* in ¶¶ 76-77 contained insufficient risk disclosures, did not provide a sound basis for claims about competitors and performance, and relied upon disclosures in other documents. Accordingly, ARI's use of this material violated of NASD Rule 2210(d)(1)(A) and FINRA Rule 2010.

204. The Issuer A sales and advertising material described *supra* in ¶ 78 contained inappropriate investment objectives, misleading promises of investment success, or unsubstantiated descriptions of prior fund performance. Accordingly, ARI's use of this material violated NASD Rule 2210(d)(1)(B) and FINRA Rule 2010.

205. The Issuer A sales and advertising material described *supra* in ¶ 79 implied that past performance of the funds guaranteed similar performance in the future. Accordingly, ARI's use of this material violated NASD Rule 2210(d)(1)(D) and FINRA Rule 2010.

206. The Issuer A sales and advertising material described *supra* in ¶ 80 failed to disclose that the securities were bring offered through ARI. Accordingly, ARI's use of this material violated NASD Rule 2210(d)(2)(C) and FINRA Rule 2010.

The Issuer B Materials

207. The Issuer B Fund sales and advertising material described *supra* in ¶ 84 described the benefits of investing in the Fund without providing a balanced discussion of the risks, including that the stated investment objectives were not guaranteed. The material also did not disclose the costs, fees, and expenses associated with the Fund. Accordingly, ARI's use of this material violated NASD Rule 2210(d)(1)(A) and FINRA Rule 2010.

208. The Issuer B Fund sales and advertising material described *supra* in ¶ 85 failed to disclose the speculative nature of the offering, omitted substantial risk disclosures that appeared in the PPM and supplements, and failed to disclose that certain prior investment programs run by principals of the Fund had experienced adverse results including the loss of all or a portion of some investors' capital. Accordingly, ARI's use of this material violated NASD Rule 2210(d)(1)(B) and FINRA Rule 2010.

209. The Issuer B Fund sales and advertising material described *supra* in ¶ 86 displayed material disclosures in small font and obscure locations where they were less likely to be noticed. Accordingly, ARI's use of this material violated NASD Rule 2210(d)(1)(C) and FINRA Rule 2010.

210. The Issuer B Fund sales and advertising material described in ¶ 87 contained

improper performance projections. ARI's use of this material violated NASD Rule 2210(d)(1)(D) and FINRA Rule 2010.

The Issuer B Fund Communications

211. The e-mail communications described in ¶¶ 137-143 did not provide a sound basis to evaluate the Issuer B offering because they omitted material information about B5. ARI's use of this material violated NASD Rule 2210(d)(1)(a) and FINRA Rule 2010.

The Issuer B Fund Radio Broadcasts

212. The December 11, 2010 and May 19, 2011 Broadcasts described *supra* in ¶¶ 168 - 184 constituted advertisements under NASD Rule 2210(a)(1).

213. As described *supra* in ¶¶ 168-184, B5, the fund principal and issuer-rep who appeared on the broadcasts, did not present a balanced discussion of benefits and risks when he discussed the Fund. He failed to address the speculative nature of self-storage investments and omitted the substantial risks that appeared in the fund's PPM. He also did not provide a sound basis for his assertion that self-storage facility investments perform well in all economies. Accordingly, B5's representations during the radio broadcasts violated NASD Rule 2210(d)(1)(A) and FINRA Rule 2010.

214. As described *supra* in ¶¶ 174-181, during the December 11th Broadcast B5 implied that the fund had acquired 70 self-storage facilities when in fact it had only acquired three. He made inflated promissory statements about the future success of investments in self-storage private placements, which implied similar future success for the fund. During the May 19th Broadcast, B5 indicated that investing in the fund was a "secure investment." Accordingly, B5's representations during the radio broadcasts violated NASD Rule 2210(d)(1)(B) and FINRA Rule 2010.

The Issuer C Materials

215. The Issuer C material described *supra* in ¶ 90 contained only generalized risk disclosures and provided misleading projections of "target returns." The material also included a hypothetical example indicating an annual yield of 9.2% without providing a sound basis for evaluating the suggested returns. Accordingly, ARI's use of this material violated NASD Rule 2210(d)(1)(A) and FINRA Rule 2010.

216. Because the Issuer C material described *supra* in ¶ 91 included the misleading statement that "[l]eaving out alternative investments may expose portfolios to greater risk," ARI's use of this material violated NASD Rule 2210(d)(1)(B) and FINRA Rule 2010.

THIRD CAUSE OF ACTION
Review, Approval and Retention of Communications with the Public
(NASD Rules 2210(b) and FINRA Rule 2010)
[ARI and Candler]

217. The Department re-alleges and incorporates by reference paragraphs 1 through 216 above.

218. NASD Rule 2210(b)(1)(A) as in effect throughout the Relevant Period required a registered principal of a FINRA member firm to approve by signature or initial and date each advertisement, item of sales literature and independently prepared reprint before the earlier of its use or filing with FINRA's Advertising Regulation Department.

219. NASD Rule 2210(b)(2)(A) in effect throughout the Relevant Period required members to maintain all advertisements and sales literature in a separate file for three years, and the file was required to include a copy of each communication and the dates of first and, if applicable, last use of such material.

220. As alleged *supra* in ¶ 99, the Firm failed to document the written approval of the

advertising and sales material it used and the first and last dates of use.

221. Accordingly, ARI and Candler violated NASD Rules 2210(b)(1)(A) and 2210(b)(2)(A) and FINRA Rule 2010.

FOURTH CAUSE OF ACTION
Misuse of Medallion Signature Guarantee Stamp
(FINRA Rule 2010)
[ARI and Candler]

222. The Department re-alleges and incorporates by reference paragraphs 1 through 221 above.

223. As discussed *supra* in ¶¶ 100 - 103, the purpose of a signature guarantee program is to "promot[e] the prompt, accurate and safe transfer of securities" to protect transfer agents and to guarantee the authenticity of the signature of the person endorsing a securities transfer

224. Thus, a signature guarantee constitutes a warranty that, at the time of signing: (a) the signature appearing on a securities transfer or instruction to transfer was genuine; (b) the signer was an appropriate person to sign, or if the signature is by an agent, the agent had actual authority to act on behalf of the appropriate person; and (c) the signer had legal capacity to sign.

225. As alleged and detailed *supra* in ¶¶ 109 - 111 and ¶ 120, and in contravention of ARI's obligations as a medallion stamp guarantor, Candler affixed signature guarantees to securities transfer documents without verifying that the signatures were authentic, that the signer was an appropriate person to execute or initiate the transfer, and that the signer had legal capacity.

226. In doing so, Candler exposed investors to the risk of fraudulent securities transfers and exposed the Firm to potential liability for contested securities transfers.

227. Accordingly, Candler and ARI violated FINRA Rule 2010.

FIFTH CAUSE OF ACTION
Failure to Maintain and Review Electronic Mail
(Section 17(a) of the Exchange Act and Rule 17a-4 promulgated thereunder, NASD Rule 3010(d), and FINRA Rules 4511 and 2010)
[ARI]
(NASD Rule 3010(b), and FINRA 2010)
[Candler]

228. The Department re-alleges and incorporates by reference paragraphs 1 through 227 above.

229. NASD Rule 3010(d) requires, among other things, that FINRA member firms review and retain their associated persons' business-related electronic correspondence with the public. This requirement applies to business communications whether they are sent or received using the FINRA broker-dealer's official e-mail platform or using another non-FINRA entity e-mail platform. Where a broker-dealer's procedures for the review of correspondence do not require pre-use review of all correspondence, NASD Rule 3010(d)(2) requires that the WSPs include provisions for surveillance and follow-up to ensure that the FINRA broker-dealer's procedures are implemented and followed.

230. FINRA Rule 4511, effective December 5, 2011, and its predecessor NASD Rule 3110, generally require members to make and preserve books, accounts, records, memoranda, and correspondence in conformity with all applicable laws.

231. Section 17(a) of the Exchange Act and Rule 17a-4(b)(4) promulgated thereunder requires members to preserve, for a period of not less than three years, electronic and other communications relating to their business as broker-dealers.

232. As alleged *supra* in ¶¶ 121-123, ARI failed to retain and review certain securities business-related communications to and from its registered representatives.

233. As alleged *supra* in ¶¶ 125-130, ARI's WSPs did not include appropriate

provisions to ensure that its standards regarding communications with the public were implemented and followed.

234. In light of the foregoing, ARI violated Section 17(a) of the Securities Exchange Act of 1934 and Rule 17a-4(b)(4) promulgated thereunder, NASD Rule 3010(d) and FINRA Rules 4511 and 2010 in connection with its failure to retain e-mail correspondence.

235. In addition, Candler and the Firm violated NASD Rule 3010(b) and FINRA Rule 2010 because Candler did not enforce WSPs that required ARI to preserve all business e-mail.

SIXTH CAUSE OF ACTION
Failure to Establish Proper Escrow Accounts
(Section 15(c) of the Exchange Act and
Rule 15c2-4 promulgated thereunder, and FINRA Rule 2010)
[ARI]

236. The Department re-alleges and incorporates by reference paragraphs 1 through 235 above.

237. Section 15(c) of the Exchange Act and Rule 15c2-4 implemented thereunder generally requires a broker-dealer participating in the distribution of securities in the form of a contingent offering to promptly deposit investor funds into a separate bank account, as agent or trustee for the investors, or a separate escrow account at a bank, until the contingency has occurred.

238. As stated in Notice to Members 84-7 and 87-61, money market funds are impermissible investments under Exchange Act Rule 15c2-4.

239. As alleged *supra* in ¶¶ 131- 134, ARI permitted customer funds in escrow for two contingency offerings to be invested in money market funds.

240. In light of the foregoing, ARI violated Section 15(c) of the Exchange Act, Rule 15c2-4 promulgated thereunder, and FINRA Rule 2010.

SEVENTH CAUSE OF ACTION
Supervision
(NASD Rule 3010 and FINRA Rule 2010)
[ARI and Candler]

241. The Department re-alleges and incorporates by reference paragraphs 1 through 240 above.

242. NASD Rule 3010(a) requires member firms to adopt a comprehensive system of supervision that is "reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable [FINRA and NASD] Rules."

243. NASD Rule 3010(b) requires member firms to "establish, maintain and enforce written procedures to supervise the types of business in which it engages." Accordingly, a broker-dealer's WSPs must be tailored to the specific nature of its business activities.

244. A violation of NASD Rule 3010 constitutes a violation of FINRA Rule 2010.

245. As described above, Candler was the President and CCO of ARI during the Relevant Period. According to the Firm's WSPs effective during the Relevant Period, Candler was the Firm's supervisory principal and was delegated the responsibility for the overall supervision at the Firm.

246. During the Relevant Period, ARI maintained WSPs for each registered OSJ, as well as Firm-wide WSPs for all other registered representatives associated with the Firm.

247. Although ARI had WSPs that generally addressed the supervision of ARI's private placement activities, they were often insufficiently tailored to the nature of its business and amounted to a supervisory system that was not "reasonably designed to achieve compliance" with the applicable laws and regulations.

Supervision of Due Diligence and Suitability

248. However, the Firm did not adopt a supervisory system reasonably designed to

achieve compliance with applicable rules and regulations and to prevent and detect the misconduct alleged *supra* in the First Cause of Action (Due Diligence and Suitability) and in ¶¶ 32-44 and ¶¶ 49-51.

249. Instead, as alleged *supra* in ¶¶ 45-47, Candler developed and relied upon WSPs that did not provide any guidance concerning the investigative steps that should be taken in performing a due diligence investigation. They also did not provide any instruction on how to properly document a due diligence review, other than to say that a due diligence file needed to exist. The WSPs further failed to include any procedures for the Firm's reliance on third parties in conducting a due diligence investigation, or for the Firm to follow up on any relevant red flags identified by third parties.

250. As a result, when Candler encountered information that should have caused him to conduct further investigation regarding the issuer of the Private Placement that ARI sold directly to customers, the Firm did not take reasonable action to follow up on these red flags or to prevent the sale of a potentially fraudulent or otherwise unsuitable offering.

251. Accordingly, Candler and the Firm violated NASD Rule 3010(a) and FINRA Rule 2010.

Supervision of Sales and Advertising Material

252. The Firm did not adopt a supervisory system reasonably designed to achieve compliance with applicable rules and regulations and to prevent and detect the dissemination of violative sales and advertising material alleged *supra* in the Second Cause of Action and described in ¶¶ 76-87.

253. As alleged *supra* in ¶¶ 92-96, Candler sometimes reviewed and approved sales and advertising materials himself. However, he also delegated this responsibility to the issuer-

reps who acted as branch managers. ARI's procedures required that materials be reviewed and approved by a branch manager but did not provide any specific procedures to ensure that this delegated supervisory review of the content, use, and distribution of promotional materials was being properly performed. Accordingly, Candler and the Firm violated NASD Rule 3010(a) and FINRA Rule 2010.

254. With respect to the Issuer B Fund advertising materials for which Candler and GG were designated with supervisory responsibility, including pre-recorded radio broadcasts, Candler failed to adopt and implement procedures that would have prevented their use. Accordingly, Candler and ARI violated NASD Rule 3010(a) and FINRA Rule 2010.

Documentation of Approval of Advertising Material

255. The Firm did not adopt a supervisory system reasonably designed to achieve compliance with applicable rules and regulations and to prevent the misconduct alleged *supra* in the Third Cause of Action (Failure to Document Approval of Communications with the Public)

256. As alleged in ¶¶ 97-99, the Firm's WSPs required principal approval of advertising and sales material, and that these materials be filed in a central location. However, the WSPs did not require principals to document their approval by signing and dating the material before using it. The WSPs did not require the Firm to maintain the date of the material's first and last use and the Firm's files indicated that it did not do so.

257. In light of the foregoing, ARI and Candler violated NASD Rule 3010(a) and FINRA Rule 2010.

Supervision of Escrow Accounts

258. During the Relevant Period, the Firm's WSPs required Candler to ensure that investor funds were placed into appropriate escrow accounts.

259. As alleged *supra* in ¶¶ 131-134, Candler failed to enforce the Firm's procedures and instead permitted investor funds in contingency offerings to be placed into bank accounts that automatically swept investor funds into money market funds.

260. This caused the Firm to violate Section 15(c) of the Exchange Act and Rule 15c2-4 promulgated thereunder and FINRA Rule 2010, as described *supra* in ¶¶ 237-240.

261. In light of the foregoing, Candler violated NASD Rule 3010(b) and FINRA Rule 2010.

Supervision of Medallion Signature Guarantee Program

262. As alleged *supra* in ¶¶ 108-112 ARI did not adopt a supervisory system reasonably designed to achieve compliance with applicable rules and regulations and to prevent and detect the misconduct alleged *supra* in the Fourth Cause of Action (Misuse of Medallion Signature Guarantee Stamp) at ¶¶ 222-227.

263. As alleged *supra* in ¶¶ 108-112, ARI and Candler failed to establish any supervisory system or written procedures relating to ARI's role as a Medallion Signature guarantor for the period January-July 2010.

264. As alleged *supra* in ¶¶ 118-119, in July 2010, the Firm adopted WSPs that did not provide instructions sufficient to ensure that the Firm had verified the authenticity, capacity, and intent of the signatory on securities transfer documents prior to affixing a medallion signature guarantee.

265. Because Candler and the Firm failed to adopt procedures reasonably designed to achieve compliance with its requirements as a guarantor in the Medallion Stamp Program, Candler and the Firm violated NASD Rule 3010(a) and FINRA Rule 2010.

Supervision Relating to General Solicitation

266. The Firm did not adopt a supervisory system reasonably designed to achieve compliance with the requirements of Section 5 of the Securities Act of 1933 (Securities Act).

267. Although the Firm's WSPs incorporated the Securities Act's prohibition of general solicitations in Reg. D offerings, as alleged *supra* in ¶¶ 185-188, they did not provide specific procedures for the identification and prevention of general solicitations. The WSPs also did not require the review of pre-recorded radio content prior to its air.

268. Candler failed to prevent the general solicitation described *supra* in ¶¶ 163-184. Accordingly, Candler and ARI violated NASD Rule 3010(a) and FINRA Rule 2010.

Supervision of Offering Materials and Distributions Thereof

269. As alleged *supra in* ¶¶ 69-72, the Candler and the Firm did not adopt a supervisory system reasonably designed to prevent the omissions described *supra* in ¶¶ 147-162.

270. As alleged *supra* in ¶¶ 66-68 and ¶¶ 144-146, Candler relied improperly on others to prevent the omissions described *supra* in ¶¶ 147-162.

271. As alleged *supra* in ¶¶ 137-143, Candler and the Firm failed to implement and enforce procedures that would have prevented the 30 incomplete and misleading distributions of offering materials described therein.

272. Accordingly, Candler and the Firm violated NASD Rules 3010(a) and (b), and FINRA Rule 2010.

PRAYER FOR RELIEF

WHEREFORE, the Department respectfully requests that the Panel:

A. make findings of fact and conclusions of law that Respondent committed the violations charged and alleged herein;

B. order that one or more of the sanctions provided under FINRA Rule 8310(a), including monetary sanctions, be imposed; and

C. order that Respondent bear such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330.

FINRA DEPARTMENT OF ENFORCEMENT

Date: May 14, 2015

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EXHIBIT A

TO THE COMPLAINT FILED BY FINRA'S DEPARTMENT OF ENFORCEMENT IN THE MATTER OF THE DEPARTMENT OF ENFORCEMENT V. ARI FINANCIAL SERVICES, INC. AND WILLIAM BRIAN CANDLER, DISCIPLINARY PROCEEDING NO. 2010023883601, DATED MAY 14, 2015

EXHIBIT A
LIST OF VIOLATIVE ADVERTISING MATERIALS

Row	Violative Content	Materials Referenced*
1	Material did not provide: ☐ a sound basis for the claims that its competitors needed to raise significantly more funding than Issuer A in order to generate the returns that they required; or ☐ a sound basis for the claim that most funds similar to those offered by Issuer A had not experienced a downturn.	1
2	Material contained risk disclosures that: ☐ appeared in locations where they were less likely to be seen; such as page footers, footnotes (in fine print), or intermingled with legal boilerplate or other technical explanations or disclosures; or ☐ were general and failed to identify specific risks associated with the Issuer A fund offerings that were the subject of the sales materials; or ☐ intermingled with other legal and offering memorandum disclosures and explanations.	2-9, 15
3	Material did not provide adequate risk disclosures.	1-9
4	Material used the term "UBTI" without defining it.	2-5, 9
5	Material failed to provide a sound basis for a claim that Issuer A funds generated positive returns during the peak market of the late 1980s and the real estate crash of the early 1990s, because the materials did not identify the specific peak market time periods referenced and did not provide any information about the returns for these periods. Materials also did not disclose that past performance does not guarantee future results.	9
6	Material failed to provide a sound basis for a claims that (1) the average dollar-weighted internal rate of return for the issuer's liquidated funds was 15.89% net of fees, and (2) that all of the issuer's liquidated funds had produced positive returns to investors because the material does not ☐ define the "internal rate of return;" ☐ identify the actual funds being referenced; or ☐ identify the funds' inception and liquidation dates.	6, 9

*See Confidential Key for List of Materials

Row	Violative Content	Materials Referenced*
7	Material contained statements regarding the issuer's flexibility to diversify individual funds by investing up to 20% of the funds' investible assets in non-real estate related securities that were imbalanced because the material did not disclose that such diversification does not assure a profit or protect against losses.	1, 9
8	Material failed to disclose the call features of the Issuer A – Fund1.	2, 9
9	Material contained investment objectives that were inconsistent with the stated objectives described in the applicable PPM.	3, 8, 9
10	Material contained misleading statements promising investment success.	1-3
11	Material contained unsubstantiated and unwarranted descriptions of prior fund performance.	1, 6, 9
12	Material contained improper performance projections and implied that past performance will recur.	2, 4, 5, 8, 9, 15, 16
13	Material failed to clearly disclose, or failed to disclose, that securities were offered through ARI.	1-5, 7, 10-11
14	☐ Material described the benefits of investing without: (1) providing a balanced discussion of the inherent risks of the notes; or (2) stating that the reported investment objectives may not be attained. ☐ Material did not disclose costs, fees and expenses associated with these investments.	12-14

*See Confidential Key for List of Materials

Row	Violative Content	Materials Referenced*
15	Material failed to disclose: ☐ The speculative nature of the offering; or ☐ the substantial risks identified in the Issuer B – Fund1 PPM and corresponding supplements, including that: (1) the Fund Manager was a newly-formed entity with no history of operations and limited capital; and (2) certain prior investment programs involving principals in the Issuer B-Fund1's management, who were Candler's partners in ARI, had experienced adverse results, including losing all or a portion of their capital.	12-13
16	Material contained only generalized risk disclosures that referred readers to the PPM, which was not attached, for a complete discussion of the risks associated with investing in the funds. Material provided improper projections because it failed to provide a sound basis for evaluating suggested returns. The improper projections included: ☐ a "targeted return" of 10-12% annualized; ☐ a "distribution rate" of 8% per annum; and ☐ a "Hypothetical Example" illustrating that an investment of $195,000 in the funds would generate a 9.2% annual yield.	17-18

*See Confidential Key for List of Materials

EXHIBIT B

TO THE COMPLAINT FILED BY FINRA'S DEPARTMENT OF ENFORCEMENT IN THE MATTER OF THE DEPARTMENT OF ENFORCEMENT V. ARI FINANCIAL SERVICES, INC. AND WILLIAM BRIAN CANDLER, DISCIPLINARY PROCEEDING NO. 2010023883601, DATED MAY 14, 2015

EXHIBIT B
LIST OF MEDALLION GUARANTEES

No.	Name of Customer	State of Residence	Date
1	Customer H	Texas	11/8/2009
2	Customer I	Iowa	11/10/2009
3	Customer J	Ohio	11/13/2009
4	Customer K	Colorado	11/15/2009
5	Customer L	Minnesota	11/16/2009
6	Customer M	Kentucky	11/17/2009
7	Customer N	Florida	11/17/2009
8	Customer O	Illinois	11/18/2009
9	Customer P	Colorado	11/20/2009
10	Customer Q	Massachusetts	12/1/2009
11	Customer R	Florida	3/8/2010
12	Customer S	Michigan	3/8/2010
13	Customer T	Virginia	3/11/2010
14	Customer U	Maryland	3/14/2010
15	Customer V	Florida	3/16/2010
16	Customer W	New York	3/18/2010
17	Customer X	Florida	3/19/2010
18	Customer Y	Ohio	3/20/2010
19	Customer Z	New Jersey	3/22/2010
20	Customer AA	Pennsylvania	3/23/2010
21	Customer BB	New Jersey	3/29/2010
22	Customer CC	California	4/07/2010