

JUN 25 2015

**BEFORE THE INVESTOR PROTECTION DIRECTOR  
OF THE STATE OF DELAWARE**

In the Matter of:

OPPENHEIMER & CO. INC.,

Respondent.

IPU Case No. 11-2-4

**ADMINISTRATIVE  
CONSENT ORDER**

WHEREAS, Oppenheimer & Co. Inc. ("Oppenheimer"), a subsidiary of Oppenheimer Holdings, Inc., is a broker-dealer registered in Delaware, with Central Registration Depository No. 249, and an investment adviser registered with the Securities and Exchange Commission and doing business in Delaware as a federal covered adviser; and

WHEREAS, the Investor Protection Unit of the Delaware Department of Justice ("Unit") has conducted an investigation of Oppenheimer in connection with the activities of Gabriel Block ("Mr. Block"), a broker-dealer agent and investment adviser representative previously employed by Oppenheimer, relating to a former client of Mr. Block, a quadriplegic Delawarean ("Victim"); and

WHEREAS, Oppenheimer has cooperated with the Unit by responding to inquiries, providing testimony, documentary evidence, and other materials; and

WHEREAS, Oppenheimer has agreed to resolve the Unit's investigation pursuant to the terms specified in this order ("Order"); and

WHEREAS, Oppenheimer neither admits nor denies any wrongdoing on the part of Oppenheimer or any of its agents or former agents; and

WHEREAS, Oppenheimer agrees to make certain undertakings regarding its supervision of broker-dealer agents and investment advisers representatives operating in Delaware, and to make certain payments, each in accordance with the terms of this Order; and

WHEREAS, Oppenheimer elects to waive permanently any right to a hearing and appeal of this Order; and

WHEREAS, Oppenheimer admits the jurisdiction of the Unit in this matter; and

WHEREAS, Oppenheimer consents to the entry of this Order;

NOW, THEREFORE, the Investor Protection Director of the State of Delaware ("Director"), as administrator of the Delaware Securities Act, 6 DEL. C. § 73-101, *et seq.* ("Act"), on the basis of the Findings of Fact, Conclusions of Law, and Oppenheimer's consent to entry of this Order, finds the following relief appropriate and in the public interest, and hereby enters this Order:

## FINDINGS OF FACT

1. Mr. Block became an employee of Oppenheimer in November 2008, and was based out of Oppenheimer's Red Bank, New Jersey branch office. Victim was Mr. Block's client at the time.
2. Mr. Block did not have formal discretionary authority over Victim's Oppenheimer accounts, but the Unit alleges he exercised effective control over them by cultivating a close, personal relationship with Victim that went beyond the scope of an ordinary broker-client relationship.
3. Victim lacked investing knowledge or experience, and relied on Mr. Block for the management of his investments and for responding to his significant cash flow needs. Victim was dependent on Mr. Block for investing advice and consistently deferred to Mr. Block's specific trade recommendations.
4. The Unit alleges Mr. Block exploited Victim's lack of investing knowledge and experience and his vulnerability by recommending Victim invest in aggressive investments that were unsuitable for Victim's needs and were a contributing factor in Victim's inability to generate income and profits from his accounts, but earned Mr. Block and Oppenheimer substantial brokerage commissions and fees.
5. Between December 2008 and January 2011, Victim invested approximately \$3,023,242 with Oppenheimer. According to Oppenheimer's

internal commission schedules, during that time period Mr. Block generated \$867,900 in commissions and fees for Oppenheimer and himself.

6. According to Oppenheimer's written policies and procedures, Oppenheimer was responsible for reviewing customer trades, new account forms and any changes to those forms, reviewing and investigating red flags raised on activity reports, and reviewing a percentage of quarantined e-mail communications through Oppenheimer's communications software program.

7. Oppenheimer's Compliance Department generated monthly compliance review reports for all registered representatives at the Oppenheimer Red Bank branch. Compliance review reports identify accounts whose activity is supposed to be given special scrutiny by Oppenheimer. Victim's accounts appeared on the compliance review report 23 out of the 24 months that the accounts were open.

8. There is no documentation showing that anyone in Oppenheimer's management (i) discussed directly with Victim the account activity or level of commissions, (ii) confirmed that Victim approved of the investments and investment strategies being employed by Mr. Block, or (iii) attempted to assess Victim's investment profile for purposes of establishing the suitability of Mr. Block's activity on Victim's behalf.

### **CONCLUSIONS OF LAW**

1. The Unit has jurisdiction over this matter. 6 DEL. C. § 7316 (2002) (now 6 DEL. C. § 73-501).

2. During the relevant time period, Oppenheimer failed reasonably to supervise Mr. Block. Oppenheimer failed to follow its compliance system designed to achieve compliance with the requirements of the aforementioned provisions, failed to address appropriately and adequately the red flags suggesting Mr. Block was engaging in churning, excessively trading, and generally making unsuitable recommendations and trades in the Accounts. Oppenheimer's conduct was in violation of 6 DEL. C. § 7316(a)(10) (2002) (now 6 DEL. C. § 73-304(a)(10)).

3. Pursuant to the Act, the violations described above constitute bases for the Director to issue an order providing for "fines, assessment of costs, restitution to investors, conditional or probationary registration, censure or reprimand, special reporting requirements, or other remedies which the [Director] determines to be in the public interest." 6 DEL. C. § 7325(b) (2002) (now 6 DEL. C. § 73-601(a)).

### **ORDER**

1. This Order concludes the investigation of Oppenheimer by the Unit and any other action that the Unit could commence against Oppenheimer under applicable Delaware law regarding the activities of Mr. Block as they

relate to Victim during the period from December 2008 through January 2011. The Unit agrees to refrain from taking any further administrative action against Oppenheimer for the aforementioned registration violations provided that Oppenheimer fully complies with the terms and conditions of this Order. Failure to comply with any term of the Order will be a basis for action by the Director. Nothing in this paragraph precludes the Unit from further investigating the facts underlying Mr. Block's activities in this matter, including the seeking of facts, documents, or testimony from Oppenheimer, nor shall anything in this paragraph preclude the Unit from taking any action relating to this matter against anyone other than Oppenheimer, including any of its agents or former agents, such as Mr. Block.

2. Oppenheimer is hereby ordered to pay the sum of \$685,000.00 to the Unit within ten days of the date of this Order, such payment to be made by United States postal money order, certified check, bank cashier's check, or bank money order, and made payable to "Delaware Investor Protection Fund" and mailed to Investor Protection Unit, Delaware Department of Justice, 820 N. French Street, 5th Floor, Wilmington, DE 19801. The monies received by the Unit pursuant to this paragraph may be used by the Unit in accordance with Section 73-703 of the Act.

3. Oppenheimer is hereby ordered to refrain from committing any future violations of the Act.

4. Oppenheimer shall develop and maintain policies, procedures and systems that reasonably supervise the activities of its broker-dealer agents, investment advisers, and branch office managers, and ensure full compliance by its officers, agents, employees, and representatives with their and Oppenheimer's responsibilities to their clients.

5. Oppenheimer shall make its officers, directors, employees, agents, or representatives available to testify in person, without requiring service of a subpoena, in any administrative or judicial proceeding brought by the Unit, the Department of Justice, or another agency or instrumentality of the State of Delaware, relating to the Unit's investigation of Mr. Block.

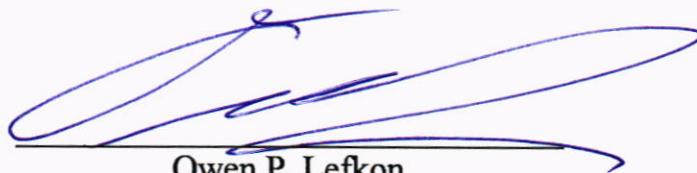
6. This Order is not intended by the Unit to subject Oppenheimer to any disqualifications under the laws of the United States, any state, the District of Columbia, Puerto Rico, or the U.S. Virgin Islands, or under the rules or regulations of any regulator or self-regulatory organization, including, without limitation, any disqualification from relying upon the state or federal registration exemptions. Disqualifications under Rule 506(d)(1) of Regulation D (17 C.F.R. § 230.501, *et seq.*) should not arise solely as a consequence of this Order.

7. This Order shall be binding upon Oppenheimer and its successors, affiliates, and assigns as well as to successors and assigns of relevant affiliates with respect to all conduct subject to the provisions above and all future

obligations, responsibilities, undertakings, commitments, limitations, restrictions, events, and conditions.

8. Oppenheimer waives any right or ability to seek judicial review with respect to the terms of this Order.

IT IS SO ORDERED, this 25<sup>th</sup> day of June, 2015.



Owen P. Lefkon  
Investor Protection Director

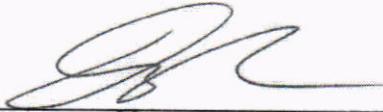
JUN 25 2015

**CONSENT TO ENTRY OF CONSENT ORDER**

Oppenheimer & Co. Inc. ("Oppenheimer") (i) admits the jurisdiction of the Investor Protection Unit in this matter; (ii) neither admits nor denies the Findings of Fact and Conclusions of Law set forth above; (iii) acknowledges it has been served a copy of this Order and has read it; (iv) agrees to entry of the Order as a settlement of the issues addressed in the Order; (v) acknowledges it is aware of its right to a hearing and appeal in this matter under 6 DEL. C. §§ 73-304, 73-502, or 73-601, and waives this right; and (vi) states that no promise of any kind or nature whatsoever that is not reflected in this Consent Order was made in order to induce it to enter into this Consent Order and that it enters into this Consent Order voluntarily.

The individual signing below on behalf of Oppenheimer represents that the individual has been duly authorized by Oppenheimer to agree to this Order and to execute this Consent to Entry of Consent Order for and on behalf of Oppenheimer.

OPPENHEIMER &amp; CO. INC.



Name: Dennis McNamara  
Title: EVP And General Counsel  
Date: JUNE 19, 2015