

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

KIM K. KOPACKA
(CRD No. 3153396)

and

BETH A. DEBOUVRE
(CRD No. 3176483),

Respondents.

Disciplinary Proceeding
No. 2016050137503

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. From at least 2002 through 2016, Respondents Kim K. Kopacka (“Ms. Kopacka”) and Beth A. DeBouvre (“DeBouvre”) enabled Ms. Kopacka’s husband, Timothy Kopacka (“Mr. Kopacka”), to associate with and conduct securities business through member firms and engage in activities requiring registration, despite the fact that he was barred from associating with member firms and therefore statutorily disqualified. During this period, Ms. Kopacka and DeBouvre allowed Mr. Kopacka to meet with new and existing firm customers and recommend the purchase and sales of securities to them, resulting in securities transactions of more than \$40 million and commissions of more than \$6 million. Ms. Kopacka and DeBouvre facilitated Mr. Kopacka’s securities business and helped him circumvent his statutory disqualification by,

among other things, falsifying the documents supporting the transactions he recommended, approving the transactions, and concealing his statutory disqualification.

2. As a result of the foregoing and additional misconduct that continued through February 2017, Ms. Kopacka and DeBouvre violated NASD Rule 2110 (for conduct occurring before December 15, 2008) and FINRA Rule 2010 (for conduct occurring on or after December 15, 2008) by permitting and enabling a statutorily disqualified and barred person to conduct a securities business through member firms and otherwise engaging in an unethical course of conduct.

3. Ms. Kopacka and DeBouvre also violated Article III, Section 3(b) of NASD's By-Laws (for conduct occurring before July 30, 2007); Article III, Section 3(b) of FINRA's By-Laws (for conduct occurring on or after July 30, 2007); NASD IM-8310-1 and Rule 2110 (for conduct occurring before December 15, 2008); and FINRA Rules 8311 and 2010 (for conduct occurring on or after December 15, 2008) by permitting and enabling a statutorily disqualified and barred person to associate with member firms.

4. And Ms. Kopacka and DeBouvre violated NASD Rules 1031 and 2110 (for conduct before December 15, 2008) and FINRA Rule 2010 (for conduct on or after December 15, 2008) by permitting and enabling an unregistered person to solicit investments to firm customers and otherwise function in a registered capacity.

RESPONDENTS AND JURISDICTION

5. **Kim K. Kopacka** entered the securities industry in November 1998. Until March 28, 2017, she had been registered with FINRA or its predecessor as a general securities representative since February 1999, and as an investment banking representative since November 2003. She first associated with First Financial United Investments, Ltd., LLP ("First Financial")

from November 1998 through November 2003 and thereafter associated with IMS Securities, Inc. (“IMS”) until March 2017.

6. Although Ms. Kopacka is no longer registered or associated with a FINRA member, she remains subject to FINRA’s jurisdiction for purposes of this proceeding pursuant to Article V, Section 4 of FINRA’s By-Laws, because (1) the Complaint was filed within two years after the effective date of termination of Ms. Kopacka’s registration with IMS, namely March 28, 2017, and (2) the Complaint charges her with misconduct committed while she was registered or associated with a FINRA member.

7. **Beth A. DeBouvre** entered the securities industry in November 1998. Until March 28, 2017, she had been registered with FINRA or its predecessor as an investment company products/variable contracts representative since 1999; as a general securities representative since 2000; as a general securities principal since 2001; as a municipal fund securities principal since 2003; and as an investment banking representative since April 2010. She was associated with First Financial from June 2001 through November 2003 and thereafter with IMS until March 2017.

8. Although DeBouvre is no longer registered or associated with a FINRA member, she remains subject to FINRA’s jurisdiction for purposes of this proceeding pursuant to Article V, Section 4 of FINRA’s By-Laws, because (1) the Complaint was filed within two years after the effective date of termination of DeBouvre’s registration with IMS, namely March 28, 2017, and (2) the Complaint charges her with misconduct committed while she was registered or associated with a FINRA member.

FACTS

Background—NASD Bars Mr. Kopacka

9. Mr. Kopacka is a former registered representative. He entered the securities industry in 1984, was registered with FINRA's predecessor from 1984 through 1998 as a general securities representative, and was associated with First Financial from November 1996 through December 1998.

10. During his association with First Financial, Mr. Kopacka conducted his securities and insurance business under the name "Grosse Pointe Financial, Inc." or "Grosse Pointe Financial" from an office located in Grosse Pointe Farms, Michigan (the "Grosse Point Office").

11. In December 1998, NASD accepted a Letter of Acceptance, Waiver and Consent in which Mr. Kopacka consented to a deferred \$340,289 fine and a bar from association with any NASD member based on allegations that he had engaged in private securities transactions without providing the required notice or receiving written approvals. By virtue of the bar, Mr. Kopacka was subject to a statutory disqualification.

12. Ms. Kopacka knew that Mr. Kopacka had been barred by the NASD.

Background—The Kopackas Immediately Circumvent Mr. Kopacka's Bar

13. Ms. Kopacka associated with First Financial (Mr. Kopacka's firm) in November 1998, one month before NASD barred Mr. Kopacka. Ms. Kopacka had no prior securities experience. Ms. Kopacka started working out of the Grosse Pointe Office, the same office in which Mr. Kopacka had worked from since November 1996, and she continued to work from that office throughout her FINRA registration. Ms. Kopacka conducted securities business under the name "Grosse Pointe Financial Services."

14. After his bar became effective, Mr. Kopacka continued to use the business name “Grosse Pointe Financial” and continued to work out of the Grosse Pointe Office. That office consisted of two rooms: a reception area used by Ms. Kopacka and a rear office used by Mr. Kopacka.

15. By working from the same office and using similar business names, the Kopackas made it appear to Mr. Kopacka’s customers that his securities business continued unchanged.

16. Indeed, Mr. Kopacka continued conducting his securities business as though nothing had changed following the NASD bar. Mr. Kopacka met with existing and new First Financial customers and recommended securities transactions to them. The transactions resulting from these recommendations were executed through First Financial.

17. Although Mr. Kopacka recommended and sold securities through First Financial, his name did not appear on account opening or transaction documents, such as subscription agreements for private placements Mr. Kopacka sold to First Financial customers. Instead, new account forms listed branch manager MW as the registered representative and OSJ Manager or General Principal, and subscription agreements identified MW as the registered representative responsible for the transactions.

18. In the fall of 2001, Ms. Kopacka approached DeBouvre, who had worked at a nearby bank and had recently obtained a securities license through the bank’s securities affiliate, about joining First Financial.

19. In September 2001, DeBouvre registered as a general securities principal through First Financial and replaced MW as Ms. Kopacka’s supervisor and manager at the Grosse Pointe Office.

20. Ms. Kopacka and DeBouvre were the only registered representatives in the Grosse Pointe Financial Services branch. DeBouvre did not supervise anyone other than Ms. Kopacka.

21. DeBouvre knew that Mr. Kopacka had been barred by the NASD.

Ms. Kopacka and DeBouvre Facilitate Mr. Kopacka's Securities Business

First Financial (January 2002 through November 2003)

22. DeBouvre's assumption of supervisory and branch manager responsibilities at Grosse Pointe Financial Services did not affect Mr. Kopacka's conduct. He continued recommending investments to new and existing firm customers. Ms. Kopacka and DeBouvre, however, changed the manner in which transactions resulting from Mr. Kopacka's recommendations were documented.

23. Ms. Kopacka signed as the "registered representative" for Mr. Kopacka's new customers and documents for transactions recommended by Mr. Kopacka. Although DeBouvre knew that Mr. Kopacka was barred by NASD, she nonetheless prepared the documents that Ms. Kopacka signed and then approved the accounts and transactions recommended by Mr. Kopacka on behalf of First Financial.

IMS (November 2003 through 2016)

24. In late 2003, Ms. Kopacka and DeBouvre terminated their association with First Financial and registered through IMS.

25. By all outward appearances, nothing changed. Ms. Kopacka continued sharing the Grosse Pointe Office with Mr. Kopacka; Mr. Kopacka routinely met with IMS customers and recommended the purchase and sale of securities; and Ms. Kopacka and DeBouvre continued doing business as "Grosse Pointe Financial Services."

26. Similarly, nothing changed with respect to how the transactions recommended by Mr. Kopacka were documented. DeBouvre prepared the paperwork—*i.e.*, new account forms, subscription agreements, and suitability disclosure forms—for Ms. Kopacka’s signature as the “registered representative;” Ms. Kopacka signed the paperwork; and DeBouvre, signed the documents on behalf of IMS and approved the transactions, which were then executed through the firm.

27. IMS paid Ms. Kopacka 92 percent of the gross commissions generated on transactions for which Ms. Kopacka was the designated registered representative. Ms. Kopacka, in turn, paid DeBouvre for serving as her branch manager and supervisor.

28. DeBouvre knew that Mr. Kopacka—and not Ms. Kopacka—was responsible for the accounts and transactions that she approved. She was present when Mr. Kopacka met with customers at the Grosse Pointe Office, accompanied him when he met customers at their homes and businesses, listened when he provided investment advice and made recommendations, and prepared the documents that his customers signed.

29. Ms. Kopacka neither made recommendations nor provided advice. She was rarely, if ever, present when Mr. Kopacka met customers, provided advice, and made recommendations.

30. In 2003, Mr. Kopacka was one of the principals and founders of United Development Fund (“UDF”), a residential real estate finance company.

31. UDF later established a series of affiliated real estate investment funds including: United Development Funding LP; United Development Funding II, LP; United Development Funding III, LP; United Development Funding Land Opportunity Fund, LP; United

Development Funding IV; and United Development Funding V. Mr. Kopacka owned interests in entities that controlled the management, operations, and business affairs of these UDF funds.

32. From 2004 through 2016, Ms. Kopacka and DeBouvre facilitated transactions through IMS that resulted from recommendations made by Mr. Kopacka. For these transactions, IMS paid Ms. Kopacka commissions totaling approximately \$6.35 million, almost half of which derived from sales of UDF funds, primarily UDF II and UDF III.

33. From October 15, 2004, through March 13, 2015, Ms. Kopacka received commissions of approximately \$2.87 million from Mr. Kopacka's recommended sales to 280 customers of approximately \$42.65 million of interests in UDF offerings.

34. On February 18, 2016, the FBI executed a search warrant at UDF's Grapevine, Texas headquarters. On the same day, NASDAQ halted trading in United Development Funding IV shares. NASDAQ suspended United Development Funding IV on October 19, 2016, for failing to timely file audited financial statements and filed a Form 25 on May 18, 2017, to delist United Development Funding IV.

35. On July 3, 2018, the United States Securities and Exchange Commission ("SEC") charged United Development Funding III and IV and four UDF executives with misleading investors by failing to disclose that United Development Funding III was unable to pay distributions and was using money from a new fund, United Development Funding IV, to pay distributions to investors in the older fund, United Development Funding III. The SEC additionally charged a fifth executive with signing false SEC filings.

FINRA's Investigation

36. In 2016, FINRA opened an investigation into Mr. Kopacka's participation in sales of UDF offerings. In connection with that investigation, in February 2017, FINRA sent

questionnaires to certain IMS customers that inquired about their UDF investments. Among other things, the questionnaire asked how the customer learned about UDF and who made the recommendations to purchase the investments.

37. At least two customers telephoned the Grosse Pointe Office after receipt of the questionnaire. When customer PT called and reported that he had received a questionnaire, DeBouvre told him to “throw it away.” When a second customer, MV, reported that she had received a questionnaire, Ms. Kopacka told her it was not important and instructed her to discard it.

FIRST CAUSE OF ACTION
Permitting and Enabling a Statutorily Disqualified and Barred Person to
Conduct a Securities Business
(FINRA Rule 2010 and NASD Rule 2110)

38. The Department of Enforcement realleges and incorporates by reference paragraphs 1- 37 above.

39. FINRA Rule 2010 requires all associated persons to “observe high standards of commercial honor and just and equitable principles of trade.” Before December 15, 2008, NASD Rule 2110 imposed similar requirements. Permitting and enabling a statutorily disqualified and barred individual to conduct a securities business and otherwise engaging in an unethical course of conduct violates FINRA Rule 2010 and NASD Rule 2110.

40. For much of two decades, Ms. Kopacka and DeBouvre permitted Mr. Kopacka, a statutorily disqualified and barred person, to conduct securities business through member firms. In order to facilitate Mr. Kopacka’s business, they:

- Established and did business as “Grosse Pointe Financial Services” in the same location that Mr. Kopacka conducted his “Grosse Point Financial” business;

- Falsified new account forms, suitability forms, subscription agreements, investment disclosure forms, and other account documents to conceal the fact that Mr. Kopacka was meeting with customers, making recommendations, providing investments advice, and otherwise acting as an associated person and in a registered capacity;
- Failed to inform their customers that NASD barred Mr. Kopacka;
- Approved accounts that Mr. Kopacka opened and transactions that he recommended; and
- Attempted to dissuade customers from cooperating with the staff's investigation of their misconduct.

41. By permitting and enabling a statutorily disqualified and barred person to conduct a securities business through member firms and otherwise engaging in an unethical course of conduct as described above, Ms. Kopacka and DeBouvre violated NASD Rule 2110 (for conduct occurring before December 15, 2008) and FINRA Rule 2010 (for conduct occurring on or after December 15, 2008).

SECOND CAUSE OF ACTION

Permitting a Statutorily Disqualified Person to Associate with Member Firms (Article III, Section 3(b) of the NASD and FINRA By-Laws, FINRA Rules 8311 and 2010, NASD Rule 2110 and NASD-IM-8310-1)

42. The Department of Enforcement realleges and incorporates by reference paragraphs 1 - 37 above.

43. The NASD and FINRA By-Laws prohibit persons from associating with member firms in any capacity if they are subject to a statutory disqualification. Article III, Section 3(b) of FINRA's By-Laws states, "No person shall become associated with a member ... if such

person is or becomes subject to a disqualification.” Before July 30, 2007, Article III, Section 3(b) of NASD’s By-Laws imposed an identical prohibition.

44. Similarly, FINRA Rule 8311 and its predecessor NASD IM-8310-1 prohibit a barred person from associating with a member in any capacity. FINRA Rule 8311 provide that “[i]f FINRA ... issues an order that ... bars a person from further association with any member, a member shall not allow such person to remain associated with it in any capacity, including a clerical or ministerial capacity.” Before December 15, 2008, NASD IM-8310-1 imposed an identical prohibition.

45. A violation of Article III, Section 3(b) of NASD’s and FINRA’s By-Laws, FINRA Rule 8311, and/or NASD IM-8310-1 is also a violation of NASD Rule 2110 (for conduct before December 15, 2008) and/or FINRA Rule 2010 (for conduct on and after December 15, 2008).

46. Under NASD’s and FINRA’s By-Laws, a “person is subject to a ‘disqualification’ with respect to membership, or association with a member, if such person is subject to any ‘statutory disqualification’ as such term is defined in Section 3(a)(39) of the [Exchange] Act.” Among the statutorily disqualifying events in Section 3(a)(39) is a bar from association with a member of any self-regulatory organization. Mr. Kopacka was and is statutorily disqualified due to his bar from association with any NASD member in December 1998.

47. Article I(d) of NASD’s By-Laws and Article I(rr)(2) of FINRA’s By-Laws define a “person associated with a member” or “associated person of a member” to include “a natural person engaged in the ... securities business who is directly or indirectly controlling or controlled by a member, whether or not any such person is registered or exempt from registration.”

48. From at least 2002 through 2016, Mr. Kopacka was an associated person of either First Financial or IMS; he engaged in each firm's securities business and was at least indirectly controlled by the firms. Mr. Kopacka was physically situated in a branch office; worked with and alongside registered representatives of the firms; opened new accounts at each firm; met with new and existing firm customers; discussed the nature and merits of investments with firm customers; corresponded with firm customers about their accounts; provided investment advice to firm customers; and recommended securities transactions to firm customers that First Financial and IMS reviewed, approved, processed and recorded.

49. From at least 2002 through 2016, Ms. Kopacka and DeBouvre permitted and enabled Mr. Kopacka to be an associated person of First Financial and IMS.

50. By permitting and enabling Mr. Kopacka to be an associated person while statutorily disqualified and barred, Ms. Kopacka and DeBouvre violated Article III, Section 3(b) of NASD's By-Laws (for conduct occurring before July 30, 2007); Article III, Section 3(b) of FINRA's By-Laws (for conduct occurring on or after July 30, 2007); NASD IM-8310-1 and Rule 2110 (for conduct occurring before December 15, 2008); and FINRA Rules 8311 and 2010 (for conduct occurring on or after December 15, 2008).

THIRD CAUSE OF ACTION
Permitting an Unregistered Person to Act in a Registered Capacity
(NASD Rules 1031 and 2110 and FINRA Rule 2010)

51. The Department of Enforcement realleges and incorporates by reference paragraphs 1 – 37 above.

52. NASD Rule 1031(a) requires that a person who is engaged in a member's securities business and who functions as a representative be registered in the appropriate registration category.

53. NASD Rule 1031(b) defines “representative” to include persons associated with member who are engaged in a member’s securities business.

54. A violation of NASD Rule 1031 also constitutes a violation of NASD Rule 2110 (for conduct before December 15, 2008) and FINRA Rule 2010 (for conduct on and after December 15, 2008).

55. From at least 2002 through 2016, Mr. Kopacka functioned as a representative of First Financial and IMS and engaged in conduct that required registration as a General Securities Representative. During this period, Mr. Kopacka was unregistered.

56. Ms. Kopacka and DeBouvre violated NASD Rules 1031 and 2110 (for conduct occurring before December 15, 2008), and FINRA Rule 2010 (for conduct occurring on or after December 15, 2008) by permitting and enabling Mr. Kopacka to work in a registered capacity while he was unregistered.

RELIEF REQUESTED

WHEREFORE, the Department of Enforcement respectfully requests that the Panel:

- A. make findings of fact and conclusions of law that respondents committed the violations charged and alleged in this complaint;
- B. order that one or more of the sanctions provided under FINRA Rule 8310(a), including monetary sanctions, be imposed including that respondents be required to disgorge fully any and all ill-gotten gains and/or make full and complete restitution, together with interest; and

- C. order that respondents 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: March 25, 2019



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**FINANCIAL INDUSTRY REGULATORY AUTHORITY
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DEPARTMENT OF ENFORCEMENT,

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v.

KIM K. KOPACKA
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and

BETH A. DEBOUVRE
(CRD No. 3176483),

Respondents.

Disciplinary Proceeding
No. 2016050137503

Hearing Officer—DRS

**ORDER ACCEPTING OFFER OF
SETTLEMENT**

Date: November 1, 2019

INTRODUCTION

Disciplinary Proceeding No. 2016050137503 was filed on March 25, 2019, by the Department of Enforcement of the Financial Industry Regulatory Authority (FINRA or Complainant). Respondents Kim K. Kopacka (“Ms. Kopacka”) and Beth A. DeBouvre (“DeBouvre”) (together, “Respondents”) submitted an Offer of Settlement (Offer) to Complainant dated October 22 and 23, 2019. Pursuant to FINRA Rule 9270(e), the Complainant and the National Adjudicatory Council (NAC), a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs (ODA) have accepted the uncontested Offer. Accordingly, this Order now is issued pursuant to FINRA Rule 9270(e)(3). The findings, conclusions and sanctions set forth in this Order are those stated in the Offer as accepted by the Complainant and approved by the NAC.

Under the terms of the Offer, Respondents Kim K. Kopacka and Beth A. DeBouvre have consented, without admitting or denying the allegations of the Complaint (as amended by the Offer), and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of FINRA, or to which FINRA is a party, to the entry of findings and violations consistent with the allegations of the Complaint (as amended by the Offer), and to the imposition of the sanctions set forth below, and fully understand that this Order will become part of each Respondent's permanent disciplinary records and may be considered in any future actions brought by FINRA.

BACKGROUND

Ms. Kopacka entered the securities industry in November 1998. Until March 28, 2017, she had been registered with FINRA or its predecessor as a general securities representative since February 1999, and as an investment banking representative since April 2010. She first associated with First Financial United Investments, Ltd., LLP ("First Financial") from November 1998 through November 2003 and thereafter associated with IMS Securities, Inc. ("IMS") until March 2017.

Although Ms. Kopacka is no longer registered or associated with a FINRA member, she remains subject to FINRA's jurisdiction for purposes of this proceeding pursuant to Article V, Section 4 of FINRA's By-Laws, because (1) the Complaint was filed within two years after the effective date of termination of Ms. Kopacka's registration with IMS, namely March 28, 2017, and (2) the Complaint charges her with misconduct committed while she was registered or associated with a FINRA member.

DeBouvre entered the securities industry in November 1998. Until March 28, 2017, she was registered with FINRA or its predecessor as an investment company products/variable

contracts representative since 1999; as a general securities representative since 2000; as a general securities principal since 2001; as a municipal fund securities principal since 2003; and as an investment banking representative since April 2010. DeBouvre was associated with First Financial United Investments, Ltd., LLP from June 2001 through and December 2003 and thereafter with IMS through March 28, 2017.

Although DeBouvre is no longer registered or associated with a FINRA member, she remains subject to FINRA's jurisdiction for purposes of this proceeding pursuant to Article V, Section 4 of FINRA's By-Laws, because (1) the Complaint was filed within two years after the effective date of termination of her registrations with IMS, namely March 28, 2017, and (2) the Complaint charges her with misconduct committed while she was registered or associated with a FINRA member.

FINDINGS AND CONCLUSIONS

It has been determined that the Offers be accepted and that findings be made as follows:

SUMMARY

From at least 2002 through 2016, Respondents Kim K. Kopacka and Beth A. DeBouvre enabled Ms. Kopacka's husband, Timothy Kopacka ("Mr. Kopacka"), to associate with and conduct securities business through member firms and engage in activities requiring registration, despite the fact that he was barred from associating with member firms and therefore statutorily disqualified. During this period, Ms. Kopacka and DeBouvre allowed Mr. Kopacka to meet with new and existing firm customers and recommend the purchase and sales of securities to them, resulting in securities transactions of more than \$40 million and commissions of more than \$6 million. Ms. Kopacka and DeBouvre facilitated Mr. Kopacka's securities business and helped him circumvent his statutory disqualification by, among other things, falsifying the documents

supporting the transactions he recommended, approving the transactions, and concealing his statutory disqualification.

As a result of the foregoing and additional misconduct that continued through February 2017, Ms. Kopacka and DeBouvre violated NASD Rule 2110 (for conduct occurring before December 15, 2008) and FINRA Rule 2010 (for conduct occurring on or after December 15, 2008) by permitting and enabling a statutorily disqualified and barred person to conduct a securities business through member firms and otherwise engaging in an unethical course of conduct.

Ms. Kopacka and DeBouvre also violated Article III, Section 3(b) of NASD's By-Laws (for conduct occurring before July 30, 2007); Article III, Section 3(b) of FINRA's By-Laws (for conduct occurring on or after July 30, 2007); NASD IM-8310-1 and Rule 2110 (for conduct occurring before December 15, 2008); and FINRA Rules 8311 and 2010 (for conduct occurring on or after December 15, 2008) by permitting and enabling a statutorily disqualified and barred person to associate with member firms.

And Ms. Kopacka and DeBouvre violated NASD Rules 1031 and 2110 (for conduct before December 15, 2008) and FINRA Rule 2010 (for conduct on or after December 15, 2008) by permitting and enabling an unregistered person to solicit investments to firm customers and otherwise function in a registered capacity.

FACTS

Background—NASD Bars Mr. Kopacka

Mr. Kopacka is a former registered representative. He entered the securities industry in 1984, was registered with FINRA's predecessor from 1984 through 1998 as a general securities representative, and was associated with First Financial from November 1996 through December 1998.

During his association with First Financial, Mr. Kopacka conducted his securities and insurance business under the name “Grosse Pointe Financial, Inc.” or “Grosse Pointe Financial” from an office located in Grosse Pointe Farms, Michigan (the “Grosse Point Office”).

In December 1998, NASD accepted a Letter of Acceptance, Waiver and Consent in which Mr. Kopacka consented to a deferred \$340,289 fine and a bar from association with any NASD member based on allegations that he had engaged in private securities transactions without providing the required notice or receiving written approvals. By virtue of the bar, Mr. Kopacka was subject to a statutory disqualification.

Ms. Kopacka knew that Mr. Kopacka had been barred by the NASD.

Background—The Kopackas Immediately Circumvent Mr. Kopacka’s Bar

Ms. Kopacka associated with First Financial (Mr. Kopacka’s firm) in November 1998, one month before NASD barred Mr. Kopacka. Ms. Kopacka had no prior securities experience. Ms. Kopacka started working out of the Grosse Pointe Office, the same office in which Mr. Kopacka had worked from since November 1996, and she continued to work from that office throughout her FINRA registration. Ms. Kopacka conducted securities business under the name “Grosse Pointe Financial Services.”

After his bar became effective, Mr. Kopacka continued to use the business name “Grosse Pointe Financial” and continued to work out of the Grosse Pointe Office. That office consisted of two rooms: a reception area used by Ms. Kopacka and a rear office used by Mr. Kopacka.

By working from the same office and using similar business names, the Kopackas made it appear to Mr. Kopacka’s customers that his securities business continued unchanged.

Indeed, Mr. Kopacka continued conducting his securities business as though nothing had changed following the NASD bar. Mr. Kopacka met with existing and new First Financial

customers and recommended securities transactions to them. The transactions resulting from these recommendations were executed through First Financial.

Although Mr. Kopacka recommended and sold securities through First Financial, his name did not appear on account opening or transaction documents, such as subscription agreements for private placements Mr. Kopacka sold to First Financial customers. Instead, new account forms listed branch manager MW as the registered representative and OSJ Manager or General Principal, and subscription agreements identified MW as the registered representative responsible for the transactions.

In the fall of 2001, Ms. Kopacka approached DeBouvre, who had worked at a nearby bank and had recently obtained a securities license through the bank's securities affiliate, about joining First Financial.

In September 2001, DeBouvre registered as a general securities principal through First Financial and replaced MW as Ms. Kopacka's supervisor and manager at the Grosse Pointe Office.

Ms. Kopacka and DeBouvre were the only registered representatives in the Grosse Pointe Financial Services branch. DeBouvre did not supervise anyone other than Ms. Kopacka.

DeBouvre knew that Mr. Kopacka had been barred by the NASD.

Ms. Kopacka and DeBouvre Facilitate Mr. Kopacka's Securities Business

First Financial (January 2002 through November 2003)

DeBouvre's assumption of supervisory and branch manager responsibilities at Grosse Pointe Financial Services did not affect Mr. Kopacka's conduct. He continued recommending investments to new and existing firm customers. Ms. Kopacka and DeBouvre, however,

changed the manner in which transactions resulting from Mr. Kopacka's recommendations were documented.

Ms. Kopacka signed as the "registered representative" for Mr. Kopacka's new customers and documents for transactions recommended by Mr. Kopacka. Although DeBouvre knew that Mr. Kopacka was barred by NASD, she nonetheless prepared the documents that Ms. Kopacka signed and then approved the accounts and transactions recommended by Mr. Kopacka on behalf of First Financial.

IMS (November 2003 through 2016)

In late 2003, Ms. Kopacka and DeBouvre terminated their association with First Financial and registered through IMS.

By all outward appearances, nothing changed. Ms. Kopacka continued sharing the Grosse Pointe Office with Mr. Kopacka; Mr. Kopacka routinely met with IMS customers and recommended the purchase and sale of securities; and Ms. Kopacka and DeBouvre continued doing business as "Grosse Pointe Financial Services."

Similarly, nothing changed with respect to how the transactions recommended by Mr. Kopacka were documented. DeBouvre prepared the paperwork—*i.e.*, new account forms, subscription agreements, and suitability disclosure forms—for Ms. Kopacka's signature as the "registered representative;" Ms. Kopacka signed the paperwork; and DeBouvre signed the documents on behalf of IMS and approved the transactions, which were then executed through the firm.

IMS paid Ms. Kopacka 92 percent of the gross commissions generated on transactions for which Ms. Kopacka was the designated registered representative. Ms. Kopacka, in turn, paid DeBouvre for serving as her branch manager and supervisor.

DeBouvre knew that Mr. Kopacka—and not Ms. Kopacka—was responsible for the accounts and transactions that she approved. She was present when Mr. Kopacka met with customers at the Grosse Pointe Office, accompanied him when he met customers at their homes and businesses, listened when he provided investment advice and made recommendations, and prepared the documents that his customers signed.

Ms. Kopacka neither made recommendations nor provided advice. She was rarely, if ever, present when Mr. Kopacka met customers, provided advice, and made recommendations.

In 2003, Mr. Kopacka was one of the principals and founders of United Development Fund (“UDF”), a residential real estate finance company.

UDF later established a series of affiliated real estate investment funds including: United Development Funding LP; United Development Funding II, LP; United Development Funding III, LP; United Development Funding Land Opportunity Fund, LP; United Development Funding IV; and United Development Funding V. Mr. Kopacka owned interests in entities that controlled the management, operations, and business affairs of these UDF funds.

From 2004 through 2016, Ms. Kopacka and DeBouvre facilitated transactions through IMS that resulted from recommendations made by Mr. Kopacka. For these transactions, IMS paid Ms. Kopacka commissions totaling approximately \$6.35 million, almost half of which derived from sales of UDF funds, primarily UDF II and UDF III.

From October 15, 2004, through March 13, 2015, Ms. Kopacka received commissions of approximately \$2.87 million from Mr. Kopacka’s recommended sales to 280 customers of approximately \$42.65 million of interests in UDF offerings.

On February 18, 2016, the FBI executed a search warrant at UDF’s Grapevine, Texas headquarters. On the same day, NASDAQ halted trading in United Development Funding IV

shares. NASDAQ suspended United Development Funding IV on October 19, 2016, for failing to timely file audited financial statements and filed a Form 25 on May 18, 2017, to delist United Development Funding IV.

On July 3, 2018, the United States Securities and Exchange Commission (“SEC”) charged United Development Funding III and IV and four UDF executives with misleading investors by failing to disclose that United Development Funding III was unable to pay distributions and was using money from a new fund, United Development Funding IV, to pay distributions to investors in the older fund, United Development Funding III. The SEC additionally charged a fifth executive with signing false SEC filings.

FINRA’s Investigation

In 2016, FINRA opened an investigation into Mr. Kopacka’s participation in sales of UDF offerings. In connection with that investigation, in February 2017, FINRA sent questionnaires to certain IMS customers that inquired about their UDF investments. Among other things, the questionnaire asked how the customer learned about UDF and who made the recommendations to purchase the investments.

At least two customers telephoned the Grosse Pointe Office after receipt of the questionnaire. When customer PT called and reported that he had received a questionnaire, DeBouvre told him to “throw it away.” When a second customer, MV, reported that she had received a questionnaire, Ms. Kopacka told her it was not important and instructed her to discard it.

FIRST CAUSE OF ACTION
Permitting and Enabling a Statutorily Disqualified and Barred Person to
Conduct a Securities Business
(FINRA Rule 2010 and NASD Rule 2110)

FINRA Rule 2010 requires all associated persons to “observe high standards of commercial honor and just and equitable principles of trade.” Before December 15, 2008, NASD Rule 2110 imposed similar requirements. Permitting and enabling a statutorily disqualified and barred individual to conduct a securities business and otherwise engaging in an unethical course of conduct violates FINRA Rule 2010 and NASD Rule 2110.

For much of two decades, Ms. Kopacka and DeBouvre permitted Mr. Kopacka, a statutorily disqualified and barred person, to conduct securities business through member firms. In order to facilitate Mr. Kopacka’s business, they:

- Established and did business as “Grosse Pointe Financial Services” in the same location that Mr. Kopacka conducted his “Grosse Point Financial” business;
- Falsified new account forms, suitability forms, subscription agreements, investment disclosure forms, and other account documents to conceal the fact that Mr. Kopacka was meeting with customers, making recommendations, providing investments advice, and otherwise acting as an associated person and in a registered capacity;
- Failed to inform their customers that NASD barred Mr. Kopacka;
- Approved accounts that Mr. Kopacka opened and transactions that he recommended; and
- Attempted to dissuade customers from cooperating with the staff’s investigation of their misconduct.

By permitting and enabling a statutorily disqualified and barred person to conduct a securities business through member firms and otherwise engaging in an unethical course of conduct as described above, Ms. Kopacka and DeBouvre violated NASD Rule 2110 (for conduct occurring before December 15, 2008) and FINRA Rule 2010 (for conduct occurring on or after December 15, 2008).

SECOND CAUSE OF ACTION

Permitting a Statutorily Disqualified Person to Associate with Member Firms (Article III, Section 3(b) of the NASD and FINRA By-Laws, FINRA Rules 8311 and 2010, NASD Rule 2110 and NASD-IM-8310-1)

The NASD and FINRA By-Laws prohibit persons from associating with member firms in any capacity if they are subject to a statutory disqualification. Article III, Section 3(b) of FINRA's By-Laws states, "No person shall become associated with a member ... if such person is or becomes subject to a disqualification." Before July 30, 2007, Article III, Section 3(b) of NASD's By-Laws imposed an identical prohibition.

Similarly, FINRA Rule 8311 and its predecessor NASD IM-8310-1 prohibit a barred person from associating with a member in any capacity. FINRA Rule 8311 provides that "[i]f FINRA ... issues an order that ... bars a person from further association with any member, a member shall not allow such person to remain associated with it in any capacity, including a clerical or ministerial capacity." Before December 15, 2008, NASD IM-8310-1 imposed an identical prohibition.

A violation of Article III, Section 3(b) of NASD's and FINRA's By-Laws, FINRA Rule 8311, and/or NASD IM-8310-1 is also a violation of NASD Rule 2110 (for conduct before December 15, 2008) and/or FINRA Rule 2010 (for conduct on and after December 15, 2008).

Under NASD's and FINRA's By-Laws, a "person is subject to a 'disqualification' with respect to membership, or association with a member, if such person is subject to any 'statutory

disqualification' as such term is defined in Section 3(a)(39) of the [Exchange] Act.” Among the statutorily disqualifying events in Section 3(a)(39) is a bar from association with a member of any self-regulatory organization. Mr. Kopacka was and is statutorily disqualified due to his bar from association with any NASD member in December 1998.

Article I(d) of NASD's By-Laws and Article I(rr)(2) of FINRA's By-Laws define a “person associated with a member” or “associated person of a member” to include “a natural person engaged in the ... securities business who is directly or indirectly controlling or controlled by a member, whether or not any such person is registered or exempt from registration.”

From at least 2002 through 2016, Mr. Kopacka was an associated person of either First Financial or IMS; he engaged in each firm's securities business and was at least indirectly controlled by the firms. Mr. Kopacka was physically situated in a branch office; worked with and alongside registered representatives of the firms; opened new accounts at each firm; met with new and existing firm customers; discussed the nature and merits of investments with firm customers; corresponded with firm customers about their accounts; provided investment advice to firm customers; and recommended securities transactions to firm customers that First Financial and IMS reviewed, approved, processed and recorded.

From at least 2002 through 2016, Ms. Kopacka and DeBouvre permitted and enabled Mr. Kopacka to be an associated person of First Financial and IMS.

By permitting and enabling Mr. Kopacka to be an associated person while statutorily disqualified and barred, Ms. Kopacka and DeBouvre violated Article III, Section 3(b) of NASD's By-Laws (for conduct occurring before July 30, 2007); Article III, Section 3(b) of FINRA's By-Laws (for conduct occurring on or after July 30, 2007); NASD IM-8310-1 and

Rule 2110 (for conduct occurring before December 15, 2008); and FINRA Rules 8311 and 2010 (for conduct occurring on or after December 15, 2008).

THIRD CAUSE OF ACTION
Permitting an Unregistered Person to Act in a Registered Capacity
(NASD Rules 1031 and 2110 and FINRA Rule 2010)

NASD Rule 1031(a) requires that a person who is engaged in a member's securities business and who functions as a representative be registered in the appropriate registration category.

NASD Rule 1031(b) defines "representative" to include persons associated with member who are engaged in a member's securities business.

A violation of NASD Rule 1031 also constitutes a violation of NASD Rule 2110 (for conduct before December 15, 2008) and FINRA Rule 2010 (for conduct on and after December 15, 2008).

From at least 2002 through 2016, Mr. Kopacka functioned as a representative of First Financial and IMS and engaged in conduct that required registration as a General Securities Representative. During this period, Mr. Kopacka was unregistered.

Ms. Kopacka and DeBouvre violated NASD Rules 1031 and 2110 (for conduct occurring before December 15, 2008), and FINRA Rule 2010 (for conduct occurring on or after December 15, 2008) by permitting and enabling Mr. Kopacka to work in a registered capacity while he was unregistered.

Based on the foregoing, Respondents Kim K. Kopacka and Beth A. DeBouvre each violated FINRA Rule 2010 and NASD Rule 2110 (first cause of action); Article III, Section 3(b) of the NASD and FINRA By-Laws, FINRA Rules 8311 and 2010, NASD Rule 2110 and NASD-

IM-8310-1 (second cause of action); and NASD Rules 1031 and 2110 and FINRA Rule 2010 (third cause of action).

Based on these considerations, the sanctions hereby imposed by the acceptance of the Offer are in the public interest, are sufficiently remedial to deter each Respondent from any future misconduct, and represent a proper discharge by FINRA, of its regulatory responsibility under the Securities Exchange Act of 1934.

SANCTIONS

It is ordered that Respondent Kim K. Kopacka be:

- Suspended from associating with any FINRA member firm in any capacity for two years;
- Fined in the amount of \$10,000; and
- Required to disgorge a portion of commissions received, which is ordered to be paid to FINRA in the amount of \$350,000, plus interest at the rate set forth in Section 6621(a)(2) of the Internal Revenue Code, 26 U.S.C. 6621, from September 3, 2013 until the date this Offer is accepted by the NAC.

The fine and disgorgement owed by Respondent Kim K. Kopacka shall be due and payable either immediately upon Respondent Kim K. Kopacka's re-association with a member firm, or prior to any application or request for relief from any statutory disqualification resulting from this or any other event or proceeding, whichever is earlier.

It is further ordered that Respondent Beth A. DeBouvre be:

- Suspended from associating with any FINRA member firm in any capacity for fifteen months; and
- Fined in the amount of \$10,000.

The fine owed by Respondent Beth A. DeBouvre shall be due and payable either immediately upon Respondent Beth A. DeBouvre's re-association with a member firm, or prior to any application or request for relief from any statutory disqualification resulting from this or any other event or proceeding, whichever is earlier.

The sanctions imposed herein shall be effective on a date set by FINRA staff.

SO ORDERED.

FINRA

Signed on behalf of the
Director of ODA, by delegated authority



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