

UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION

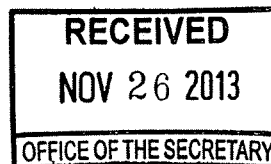
ADMINISTRATIVE PROCEEDING

File No. 3-15255

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In the Matter of :  
:   
JOHN THOMAS CAPITAL MANAGEMENT :  
GROUP, LLC, d/b/a PATRIOT28, LLC, :  
:   
GEORGE R. JARKESY JR., :  
:   
JOHN THOMAS FINANCIAL, INC., :  
:   
ANASTASIOS "TOMMY" BELESI, :  
:   
Respondents. :  
:

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THE DIVISION OF ENFORCEMENT'S SUPPLEMENTAL MEMORANDUM  
IN OPPOSITION TO PETITIONERS GEORGE JARKESY'S ("JARKESY")  
AND JOHN THOMAS CAPITAL MAMANGEMENT LLC d/b/a PATRIOT28  
LLC'S PETITION FOR INTERLOCUTORY REVIEW

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The Division of Enforcement (“Division”) submits this supplemental memorandum in opposition to Petitioners George Jarkesy’s (“Jarkesy”) and John Thomas Capital Management LLC d/b/a Patriot28 LLC’s (collectively “Respondents”) Petition for Interlocutory Review.

### **STATEMENT OF THE CASE**

Respondents served as investment advisor for the John Thomas Bridge & Opportunity Funds, hedge funds purporting to invest in (1) bridge loans (coupled with an equity investment in the borrowing companies); and (2) life settlement policies. The purpose of the life settlement policies was to provide a safe “hedge” for the risky equity investments. The Division claims that Respondents fraudulently valued the insurance policies as well as some of the largest equity positions. The Division also claims that Respondents made numerous misrepresentations to investors, including: (a) the amount of investment that the funds would make in any single company; (b) the identity of the funds’ auditor and prime broker; (c) the risks associated with the insurance portfolio; (d) the number of insurance policies; and (e) the credit rating of the insurers that issued the policies. Finally, the Division alleges that Respondents misrepresented their relationship with John Thomas Financial, Inc. (“JTF”), the selling agent for the funds and, in violation of their fiduciary obligations, ensured that maximum fees would be paid to JTF. Respondents’ misrepresentations appear on their website, in the funds’ private placement memoranda (“PPM”), in newsletters and other correspondence to investors, in the fund’s financial statements, and in the periodic account statements sent to investors.

Respondents have articulated their defense in three documents: (1) their Wells submission; (2) their Answer; and (3) their pre-hearing brief. In none of these documents do Respondents argue that JTF or its principal Anastasios “Tommy” Belesis (“Belesis”) are

responsible for the fraudulent valuations, for the fraudulent misrepresentations, or for any of the investor losses. Indeed, such a claim would be difficult to justify because the misrepresentations appear in documents written and sent by Respondents, and attributed to Respondents.

### **THE DIVISION'S PRODUCTION OF DOCUMENTS AND BRADY MATERIAL**

Exceeding its disclosure obligations, the Division provided Respondents with a searchable Concordance database containing the vast majority of its non-privileged investigative file as well as several CDs containing additional documents.<sup>1</sup> In addition, while the Rules of Practice require the Division make available only documents received during the investigation, the Division also produced documents received after the case was filed. The Division withheld certain documents from production, including internal memoranda, emails, and handwritten notes reflecting conversations with witnesses. The Division, however, provided a declaration summarizing the potential exculpatory material in the interview notes.<sup>2</sup>

With respect to one of Respondents' investors, Steven Benkovsky, the declaration provided what the Division believed to be the potentially exculpatory statements made by Benkovsky, including: (1) that he did not read the PPM and blames himself for being naïve and not reading the documents; (2) that Jarkesy appeared hard-working; (3) that he did not receive any guarantees of return; (4) that he received a \$75,000 distribution; and (5) that he was never told the auditors valued the fund's investments.<sup>3</sup> The Declaration also stated that Benkovsky met Jarkesy and was shown a power point presentation that identified some of the companies in

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<sup>1</sup> Rule 230 requires only that the Division make available its investigative file to Respondents for inspection and copying (at the Respondents' expense). The Division is not obligated to provide copies of its file or provide its file in the form of searchable databases.

<sup>2</sup> Respondents speculate that because there were several people present during interviews, more than one set of interview notes exist. This is untrue.

<sup>3</sup> The Division's determination of what statements were exculpatory was based upon the Division's theories of liability as well as the affirmative defenses asserted by Respondents.

which the fund invested and that he received regular account statements. As the inadvertently produced Benkovsky interview notes demonstrate, the vast majority of the Division's conversation with the witness concerned Benkovsky's other investments and not the Funds.<sup>4</sup>

In addition to the declaration, the Division produced a large file of documents provided by Benkovsky, including the PPM and other subscription documents, the power point presentation described in the declaration, account statements, and other correspondence. The Division also produced spreadsheets Benkovsky created listing his investments through JTF (Exhibit A) and a Statement of Claim from a FINRA arbitration that Benkovsky initiated against Respondents, Belesis, and JTF. (Exhibit B). Respondents neglect to inform the Commission of the extensive Benkovsky production.

### **RESPONDENTS OVERSTATE THE DIVISION'S BRADY OBLIGATIONS**

Respondents contend the Division "misinterpreted or misunderstood" its obligations under Rule of Practice 230(b)(2). The opposite is true -- Respondents seek to impose greater obligations than the law requires. In *In the Matter of OptionsXpress, Inc.*, File No. 3-14848, 2013 SEC LEXIS 3235 \*22 (Order of the Commission, Oct. 16, 2013), the Commission stressed that "*Brady* is not a discovery rule." Rather, "Rule 230(b)(2) instead is 'intended to insure that exculpatory material known to the Division is not kept from the respondent.' Its purpose 'is not to provide [the respondent] with a complete disclosure of all evidence ... which might conceivably assist him in preparation of his defense.'"

In *OptionsExpress*, the Commission described several important limitations on *Brady* that Respondents ignore. First, "[t]o trigger the disclosure obligation under rule 230(b)(2), 'the

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<sup>4</sup> This is because the Division's investigation was broader than the Funds.

evidence must be ‘material either to [the respondent’s] guilt or punishment,’ with the test of materiality being whether there is a ‘reasonable probability’ that the evidence’s disclosure would have resulted in a different outcome.” *Id.* at \*11.<sup>5</sup> Second, the Division’s *Brady* obligations do not apply to information already known to respondents or their counsel. *Id.* at \*33.<sup>6</sup> Third, the Division’s *Brady* obligations do not apply to inadmissible evidence. *Id.* at \*27 and n.42.<sup>7</sup> Fourth, “‘*Brady* obligates the government to disclose ‘evidence favorable to the accused,’ but [i]t does not obligate the government to give the defendant *legal theories.*’” *Id.* at \*29.<sup>8</sup> The Division identified all statements that on their face were materially exculpatory to the claims and defenses actually asserted by the parties. The Division was under no obligation to read Respondents’ minds as to what non-disclosed defenses might be asserted.

#### **THE DIVISION DID NOT ERR IN ITS *BRADY* ANALYSIS**

Respondents claim that the Division failed to identify certain statements made by Benkovsky that are either exculpatory or impeachment material. The Division notes that the chart in Respondents’ brief takes statements out of context, and unjustifiably combines multiple statements together in an attempt to derive unreasonable inferences. The Commission should review the notes itself rather than rely on Respondents’ mischaracterizations.

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<sup>5</sup> See also *Lamberti v. United States*, 22 F. Supp.2d 60, 66-67 (S.D.N.Y. 1998) (Kaplan, J), *aff’d sub nom*, 201 F.3d 430 (2d Cir. 1999) (“A ‘reasonable probability’ is ‘a probability sufficient to undermine confidence in the outcome’ of the case”).

<sup>6</sup> *United States v. Dhaliwal*, No. 09-1536, 2012 U. S. App. LEXIS 5408 (6<sup>th</sup> Cir. March 13, 2012) (“‘there is no *Brady* violation if the defendant knew or should have known the essential facts ... or if the information was available to him from another source’”)

<sup>7</sup> As such, Belesis/JTF’s offer of settlement that has not been approved by the Commission is not *Brady* material. In any event, the Division disclosed that Belesis/JTF made an offer of settlement that the Division was willing to recommend and if the Hearing Officer allows, Respondents will be able to cross-examine Belesis notwithstanding that the Division will not disclose the nonpublic terms.

<sup>8</sup> See also *United States v. Comosona*, 848 F.2d 1110, 1115 (10<sup>th</sup> Cir. 1988) (“If a statement does not contain any expressly exculpatory material, the Government need not produce that statement to the defense. To hold otherwise would impose an insuperable burden on the Government to determine what facially non-exculpatory evidence might possibly be favorable to the accused by inferential reasoning.”)

Respondents claim that the Division did not disclose impeachment material for Benkovsky, including that Benkovsky did not read the PPM, that he lost at least \$4 million unrelated to the funds (demonstrating bias), that Benkovsky is trying to revive a company called W2Energy and to make its investors whole, and that Benkovsky is owed \$30,000 for work that he did for another broker-dealer (Charles Vista). Contrary to Respondents' claims, the first statement above was explicitly disclosed in the declaration. Benkovsky's investments and losses are disclosed in the numerous documents provided to Respondents, including Benkovsky's spreadsheets and his FINRA statement of claim.<sup>9</sup> His attempts to revive W2Energy (to protect his investment) have no bearing on this matter and Respondents don't attempt to explain how Benkovsky might be liable to other W2Energy investors. Likewise, that he is owed \$30,000 by another broker-dealer (a pittance compared to the losses Respondents caused) does not demonstrate bias that Benkovsky might have against Respondents. Because Respondents already had this information and/or because the information was immaterial, the Division had no additional obligation to disclose it.

Respondents also claim that certain statements might impeach Belesis/JTF, including additional false statements made by Belesis/JTF to Benkovsky to persuade him to invest, that JTF churned Benkovsky's account and charged excessive fees, and that JTF recommended unsuitable investments and used high-pressure tactics. To the extent that the interview notes are even admissible to impeach Belesis/JTF, this information is contained in Benkovsky's FINRA statement of claim. Moreover, JTF's and Belesis's sales practice violations are a matter of

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<sup>9</sup> In addition to the fact that the Division produced the Statement of Claim to Respondents, Respondents were also named as Respondents in the FINRA arbitration proceeding. Consequently, they are more than aware of the facts alleged by Benkovsky in that action.

public record. FINRA initiated a separate disciplinary proceeding against Belesis<sup>10</sup> and numerous reportable events for JTF and Belesis are listed in BrokerCheck. Indeed, a Google search for Belesis and JTF provides a plethora of information with which to cross-examine Belesis and any other JTF witness. Because the Division produced this information to Respondents and/or because this information is publicly available, duplicative, and cumulative the Division had no additional obligation to disclose such information.

Finally, Respondents claim that certain statements of Benkovsky are exculpatory. In so doing, Respondents fabricate unreasonable inferences from vague statements. For example, from certain comments made to Benkovsky concerning when the Sahara IPO would take place, Respondents suggest “a pattern of JTF failing to timely raise capital for investment banking client-companies thereby contributing to losses.” In addition to the fact that Benkovsky’s statements hardly create this inference and that this was not listed as an affirmative defense, the information was well-known to Jarksey who testified “we butted heads on quite a bit as to he [Belesis] would say that he was going to raise money and then they didn’t raise money and then the company would be strapped and, you know, we’re on the board and what have you. So from a board perspective, I ... had these arguments ... when are you going to raise the money with him [Belesis] pretty regularly.” (Exhibit C).

Other statements are similarly non exculpatory. That Benkovsky believed that Jarksey ran the fund and Belesis sold the fund simply reflects what Respondents told investors. Benkovsky had no basis to know whether Belesis was improperly influencing the fund or was receiving unjustified and excessive fees. Similarly, that Benkovsky believed that Jarksey was

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<sup>10</sup> <http://www.finra.org/Newsroom/NewsReleases/2013/P241455>

liquidating the fund reflects what Respondents told investors and does not mean that the fund was timely being liquidated. Finally, that Belesis used JTF's substantial share ownership in Sahara to exercise influence over that company is not exculpatory as to whether Jarques allowed Belesis to exercise control over the funds, including demanding that the funds pay certain bills of a company called Galaxy Media & Marketing. None of the purported exculpatory statements are relevant, much less material.

### CONCLUSION

For the reasons set forth herein, the Division respectfully requests that the Commission deny Respondents' Petition for Interlocutory Review.

Respectfully Submitted,



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***John Thomas Financial***

Date	Total Investments
on or about	
4/21/2008	\$200,000.00 Misc. Stocks
4/29/2008	\$234,495.00 Misc. Stocks
5/9/2008	\$250,000.00 America West
5/9/2008	\$500,000.00 Bridge Fund
6/4/2008	\$568,222.50 Misc. Stocks
7/15/2008	\$1,500,000.00 Bridge Fund
8/18/2008	\$1,000,000.00 Honey Mag
9/11/2008	\$194,623.00 Honey mag

IN THE MATTER OF THE ARBITRATION BEFORE  
THE FINANCIAL INDUSTRY REGULATORY AUTHORITY

-----X  
STEVEN BENKOVSKY

Claimant,

**STATEMENT  
OF CLAIM**

v.

JOHN THOMAS FINANCIAL CORPORATION,  
JOHN THOMAS BRIDGE AND OPPORTUNITY FUND,  
THOMAS BELESIS, GEORGE JARKESY,  
RATB HOLDINGS LLC, and JOHN DOES 1-100

Respondents.  
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Claimant Steven Benkovsky (hereinafter "Claimant," "Mr. Benkovsky" or "Benkovsky"), by and through his counsel, Hantman & Associates, submits this Statement of Claim against FINRA member John Thomas Financial Corporation, and some of its principals, employees, representatives and broker-dealers including but not necessarily limited to<sup>1</sup> Thomas Belesis<sup>2</sup>, along with John Thomas Bridge and Opportunity Fund and some of its principals, employees, representatives including but not necessarily limited to George Jarkesy, all of whom induced and promoted certain stocks to Claimant directly and/or indirectly (hereinafter collectively referred to as "Respondents"). This matter is arbitrable pursuant to Rule 12200 of the FINRA Code of Arbitration Procedure.

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<sup>1</sup> The naming of other potential parties is subject to further discovery and investigation as certain persons who would otherwise be named are purported to have acted under duress and threats from the principals named in the caption above.

<sup>2</sup> The following persons are believed to have been actively involved in the actions complained of herein as further discovery is expected to reveal: Nick Cavalcante, Dennis Riordan, Lydell Polanco.

## INTRODUCTION

Benkovsky was initially solicited by John Thomas Financial (“JTF” or the “Firm”) in early 2008, and over a period of time was induced by agents, employees, and representatives of JTF (hereinafter referred to as “Brokers” of JTF) to make investments between \$4 million and \$6 million.

As a FINRA-accredited institution, JTF is legally obligated to discuss Claimant’s investment objectives prior to making trades on his behalf. Benkovsky, a middle-aged man preparing for his retirement, was interested in making safe, sustainable investments, not the highly speculative investments JTF engaged in on his behalf.

While Respondent appeared to be a reputable company, Claimant continuously asked for assurances that his investments were reasonable and prudent for the purpose of providing for his eventual retirement. In spite of repeated assurances by Respondent that Benkovsky’s investments were appropriate and suitable for his investment objectives, Claimant only recently discovered that his investments were part of a large, risky scheme designed to generate substantial fees for the partners and managers of JTF and its various funds.

As Claimant began to question his investments with JTF, he was met with evasive and misleading answers, further validating his suspicions that his investments with JTF were in violation of numerous federal securities laws and FINRA regulations.

In addition, inquiries from Claimant’s accountant on or about April 24, 2012, including a substantial demand for his financial records (Exhibit A), was essentially ignored by JTF, as was correspondence from his lawyers dated January 12, 2013 (Exhibit B).

## **THE PARTIES**

### **CLAIMANT**

Mr. Benkovsky is a 50 year-old businessman, who is the proprietor of an HVAC company with its principal place of business in Long Island, New York. While Benkovsky has done well financially over the years, he is not a sophisticated investor, and, as stated above, his primary investment concern was preparing for his retirement.

### **RESPONDENTS**

Respondent JTF is a full-service brokerage firm with corporate headquarters in New York City, on the 23rd floor of 14 Wall Street, directly opposite the New York Stock Exchange. JTF is owned and operated by Thomas Belesis (CEO), a 38 year-old financier who recently appeared in the popular film "Wall Street: Money Never Sleeps."<sup>3</sup>

According to FINRA, JTF was founded in 1996 and does business throughout the United States, including locally in New York. Upon information and belief, JTF has also operated under the following names: Gotham Lawrence Corporation and Lawrence Marketing, Inc. JTF has grown rapidly over the past few years, expanding from a 3-person brokerage firm to a full-service firm with over 300 employees.<sup>4</sup>

As publicly reported in the media and public records, Belesis and his Firm have been under an ongoing investigation from the FBI, SEC, and FINRA in recent years. In 2011, JTF was fined by FINRA for improper handling of fees when it charged its customers as much as \$75 per trade in addition to the commission.<sup>5</sup> That same year, Respondents were found liable for failing to have a

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<sup>3</sup> [http://www.nypost.com/p/news/business/shady\\_past\\_for\\_wall\\_st\\_mr\\_clean\\_m20yXSYlcdqvgSeE4hhvRO](http://www.nypost.com/p/news/business/shady_past_for_wall_st_mr_clean_m20yXSYlcdqvgSeE4hhvRO)

<sup>4</sup> <http://www.johnthomasfinancial.com/home>

<sup>5</sup> <http://www.finra.org/newsroom/newsreleases/2011/p124283>

proper supervisory system to ensure transparency regarding customer handling fees.<sup>6</sup> They were fined by FINRA again in 2012 for failing to disclose the true nature of their handling fees to customers. A true and accurate copy of JTF's FINRA Broker Check report is annexed hereto as Exhibit C.

Again in 2012, JTF failed to report Reportable Operating Events ("ROES") that it was required to transmit under FINRA regulations. See Exhibit C. Currently, Belesis is the subject of a FINRA investigation in regards to allegations that he artificially inflated the price of a stock.<sup>7</sup>

In addition to a myriad of alleged improprieties, it has been alleged that Belesis and the Firm engaged in insider trading regarding a bio-technology investment.<sup>8</sup> Further, JTF owns a significant stake in the Seattle-based coal company America West, one of the investments JTF induced Claimant to invest in, which recently faced legal troubles when it attempted to use a shell company to take control of the struggling company.<sup>9</sup> Belesis and the Firm are currently faced with ongoing legal battles resulting from his attempt to take control of the coal company when its share price fell from ninety cents on the dollar to twenty cents.<sup>10</sup>

John Thomas Bridge and Opportunity Fund ("JTB&OF"), upon information and belief, is an affiliate and/or related entity of JTF and is also believed to be a Texas Corporation, (referred to collectively as "John Thomas Financial" or "JTF"), and was one of the investment vehicles which JTF induced Claimant to invest in, to his detriment and harm.

Upon information and belief, RATB Holdings, LLC, a Delaware limited liability company, is also believed to be an affiliate and/or related entity to JTF, and part and parcel of the scheme to fleece Claimant of his life savings.

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<sup>6</sup> Id.

<sup>7</sup> <http://www.bloomberg.com/news/2013-02-25/red-bull-fed-brokers-stand-as-john-thomas-draws-scrutiny.html>

<sup>8</sup> [http://www.nypost.com/p/news/business/cameo\\_calamity\\_LhJthdmD5SGLgDzTEFRc5J](http://www.nypost.com/p/news/business/cameo_calamity_LhJthdmD5SGLgDzTEFRc5J)

<sup>9</sup> Id.

<sup>10</sup> Id.

Furthermore, as outlined in greater detail herein, Claimant is informed and believes, and based upon such information and belief, alleges that all the investments were known by Respondent to be in nonviable entities whose probability of operating as successful ventures was essentially none, and the basis for all the investments traded were substantially to line the pockets of Respondents and third parties in the employ of and/or control by Respondents.

### FACTS

JTF first contacted Benkovsky in 2008. Over the course of the next several years, JTF's employees and representatives induced Benkovsky to invest over \$4 million with JTF. As a 50-year old investor, Benkovsky was looking towards retirement, and was not interested in speculative, aggressive investments. Throughout the relationship, Benkovsky was repeatedly assured that the investments were safe and were ideally aligned with his investment objectives. Claimant repeatedly emphasized that his goal was capital preservation, not risky, high-yield investments.

Specifically, in early 2008, Nick Cavalcante, a broker with JTF, cold-called Benkovsky at his home. Benkovsky quickly developed a rapport with Cavalcante. After several conversations with Cavalcante, he convinced Benkovsky to make an initial investment.

At this time, Benkovsky was directed to speak with Gregg Lorenzo; Cavalcante's superior and believed to be a senior broker with JTF. Over the course of the next several years, JTF's employees including Cavalcante, Gregg Lorenzo, and George Jarkesy, Dennis Riordan, Lydell Polanco, Frank Lorenzo and others colluded and fraudulently induced Benkovsky to make large investments with JTF. Although Cavalcante was the person whom initiated contact with Benkovsky, Benkovsky was frequently referred back to Gregg Lorenzo. JTF's team as a whole, including Cavalcante, Gregg Lorenzo, Frank Lorenzo, Dennis Riordan, and all of the above-named

individuals, employed high-pressure sales tactics in order to obtain additional funds from Benkovsky. These tactics included making numerous daily calls to Benkovsky's office and to his cell phone early in the morning and late in the evening, insulting his intelligence and masculinity if he declined to invest in a particular area or venture, and presenting Benkovsky with misleading and/or false financial information. When Benkovsky instructed JTF's brokers that he would like to pull out of various investments, he was routinely told that he was unable to for various reasons. At this time, JTF attempted to induce Benkovsky to make investments in companies who later became the subject of broker fraud and/or bankruptcy, including Amber Ready.

JTF also made various unauthorized trades and investments without Benkovsky's knowledge or permission, including investing \$2 million in Honeymag after Benkovsky had only agreed to invest \$1 million. JTF also began taking much higher commissions than the 2% agreed upon by Benkovsky. When Benkovsky brought this to JTF's attention, he was rebuffed and ignored.

It should be noted that throughout this period, all of Benkovsky's attempts to communicate with JTF by email were ignored and instead substantially all communications took place over the phone or in person. For example, an email sent to a JTF broker would be responded by a phone call or an email arranging a phone call, rather than responding to Benkovsky's inquiry via email.

## **I. Investments**

### **A. America West Resources**

America West Resources is a domestic coal producer based in Salt Lake City, Utah, focused on the mining of low-sulfur coal and its sale primarily to US companies for use in generating electricity. The Company operates the Horizon Mine, which has recoverable compliant coal reserves under lease of approximately 19 million tons.

On October 15, 2007, Hidden Splendor (a subsidiary of America West) filed for Chapter 11 Bankruptcy in Nevada. In 2008, in an effort to remedy their financial troubles, America West announced that it received \$5.2 million in a private placement led by JTF. At the time, Dan Baker (America West CEO) and Belesis praised the move as a smart business venture for both companies, emphasizing that the coal industry was poised for significant growth in the coming years. As discovery is likely to support public statements and internal memos consistently referred to this as a deal with the potential to be highly lucrative

In September of 2009, America West announced that it had recently acquired a new “continuous miner” tool which would allow it to evaluate re-starting mining activities in a second section of Horizon Mine. The new tool would allow extraction of more coal without blasting, ultimately increasing the amount of resources that could be extracted from the mine. In April, 2010, the Company announced a four-year lease deal with a coal storage and export facility in a northwestern U.S. seaport in anticipation of commencing shipments of coal from Horizon Mine to China, which relies on coal for 70% of its energy needs and is the world’s largest consumer of coal. At the time, the deal was valued at between \$47 and \$51 million per year.

On February 1, 2013, America West filed a voluntary petition for reorganization under Chapter 11 in the US Bankruptcy Court for the District of Nevada. As of March 26, 2013, America West stock is worth just \$500,000, or \$.007 per share. JTF received incentives to sell and raise the price of America West stock. They received warrants from America West, which guaranteed JTF the right to buy 200,000 shares of America West stock at \$1.00 per share, which America West could then re-sell on the open market at a massive profit. JTF received over \$1 million in fees for



selling America West stock.<sup>11</sup>

By May 9, 2008, when Mr. Benkovsky purchased \$250,000 worth of America West stock, the lowest possible price he could have bought stock for directly from America West was just over \$2.00 per share, with a peak value of \$5.76 per share. At these levels, the value of America West's incentive warrants approached nearly \$500,000. It is notable that in 2008, America West delayed their quarterly and annual SEC filings on three occasions (out of four filing opportunities), and their auditors (Malone & Bailey, PLC) expressed doubts regarding the Company's ability to continue operating as a going concern (4/29/08).

A more in depth discussion of JTF's scheme with regards to America West can be found in FINRA's Disciplinary Proceeding No. 20120334673-01. This proceeding, brought by FINRA's Department of Enforcement, makes allegations of fraud, intimidation of registered representatives, improper trading ahead of customer equity orders, breach of the duty of best execution, among several others. Specifically, it is alleged that on a day where shares of America West opened at 28 cents per share and spiked at a high of \$1.80, that JTF prevented at least 15 customer orders in order to sell the majority of its position in America West, netting JTF proceeds of over \$1 million.

**B. JTF Bridge & Opportunity Fund**

Benkovsky invested a total of \$2 million with the JTF Bridge & Opportunity Fund, split between an initial investment of \$500,000 on May 9, 2008, and an additional \$1.5 million on July 15, 2008.

In the private placement memorandum dated June 1, 2007 (inviting potential partners to invest in the JTB&OF), the JTB&OF is presented as a fairly safe proposition. The investments are split between buying out senior citizens' life insurance policies (which, despite being only 60% of

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<sup>11</sup> <http://www.bloomberg.com/news/2013-02-25/red-bull-fed-brokers-stand-as-john-thomas-draws-scrutiny.html>

the investment strategy, the face value amounts to 117% of the aggregate capital investments) and short to medium-term debt investments in business enterprises, described in various documents as a “highly predictable liquidity event”, all of which proved to be entirely false. An un-savvy investor, however, would not realize that the 117% was notional value, meaning that JTF was obligated to pay the life insurance premiums, making it years before the investment would realize any profit (despite incurring continuing costs until that time).

The record-keeping of this fund reflects the carelessness of JTF. On May 31, 2008, the ending balance of Benkovsky’s account was \$7,445. However, on June 1, 2008, the starting balance of the account was \$0, despite no recorded redemptions.

In an action brought by the Securities and Exchange Commission (“SEC”), the SEC alleges that JTB&OF was part of a larger scheme to defraud investors such as Benkovsky, wherein the value of shareholders’ investments was misrepresented to investors and based on arbitrary methodology for the purpose of securing additional investments and fees for JTF and its affiliates.<sup>12</sup>

C. Honey Mag, Youblast, and Fileblaze

JTF induced Claimant into investing \$1,194,623.00 in Honeymag.com, an online magazine owned by Youblast geared towards urban females that launched in 2009. Benkovsky was invited to Honeymag’s headquarters where he met with Philmore Anderson IV (“Anderson”, CEO of Honey Mag), Frank Lorenzo, Wayne Kaufman, Nick Cavalcante, Barry Latterman, Belesis, and Vinny Sorrentino.

At this time, Honeymag was pitched to Benkovsky as a viable investment opportunity, primed for a return on investment. Benkovsky later discovered that Belesis was on the Board of

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<sup>12</sup> <http://www.sec.gov/litigation/admin/2013/33-9396.pdf>

Directors of Honeymag. Then, Anderson further informed Benkovsky that Belesis' presence on the Board of Directors was proving to be problematic, as Anderson felt that Belesis was mismanaging the company and diverting funds meant for Honeymag to other areas/investments.

Shortly afterwards, Benkovsky was informed that Honeymag was being absorbed into a greater vehicle called Youblast. Youblast, as it was explained to Benkovsky, was a broader social media platform that was geared towards gaining a larger and more diverse audience than Honeymag. Again, representatives of JTF represented this to be a safe and stable investment of Benkovsky's funds. In 2010, Benkovsky was then informed that the nature of the venture was being transformed by Fileblaze, a company specializing in cloud technology.

In August 2010, Benkovsky was given a presentation by Charles Baker, CEO of Fileblaze, demonstrating the company's innovative cloud technology. During the presentation, Baker represented the company as being owned by Youblast Global, which owns Honeymag.com. During the presentation, Benkovsky was led to believe that the cloud technology was owned by Youblast, and that the companies were merging their assets for the purpose of supporting the development of this technology. From August 2010 through December 2011, presentations were given from JTF, Youblast, and Fileblaze to many potential investors to raise debt and equity.

Essentially, upon information and belief, these three companies (Honeymag, Youblast, and Fileblaze) colluded to raise capital through debt and equity presentations. These actions were blatantly fraudulent, since no final material agreements actually took place between Youblast Global and Fileblaze. Upon information and belief, there was never any intent to merge the companies. And all three companies took in capital and dispersed it amongst themselves in fees, salaries, and expenses, and called themselves an operating company.

Employees of JTF, and in particular Belesis, actively perpetrated a fraud upon investors,

including Benkovsky, for the purposes of financial gain, engaged in mismanagement of corporate assets, and used his position on the Board of Directors to effectuate these frauds. In reality, Youblast was a shell company designed to generate fees for the CEOs of JTF, Fileblaze, and Youblast.

D. Miscellaneous Stocks – Benkovsky is Defrauded By JTF

On or about the time Benkovsky first invested in America West and Honeymag, Benkovsky sought information on the suitability of these investments yet his inquiries to JTF were either ignored or responded to with misleading information or vague and evasive answers. JTF's lack of responsiveness to these inquiries supports the inference that JTF was acting in furtherance of a scheme to defraud wealthy investors and generate income for themselves in the form of commission fees and consultant payments.

As to the Youblast/HoneyMag investments, the CEOs of JTF, Youblast, and Fileblaze were raising capital for an investment they did not have a license for, a clear violation of SEC laws and FINRA regulations.

The companies represented that they had a license and were fully operational, when in reality they did not maintain their filing status, or provide public accounting information for the company for the prior 18 months, and slowly dismantled the company until its stock was essentially worthless, all without communicating with investors. Honeymag, like Claimant's other investments with JTF, was simply an elaborate scheme to generate lucrative profits for a select few seemingly savvy businessmen.

On April 24, 2012, Benkovsky's accountant, Marc Schreck, sent a letter to JTF's CEO, Thomas Belesis, making 92 specific requests of further information surrounding the investments in question. As of March 2013, these interrogatories remain unanswered. See Exhibit A (Schreck

letter).

Benkovsky grew increasingly concerned, and retained the undersigned firm of Hantman & Associates to represent him. Undersigned counsel, on behalf of Claimant, submitted a letter to Belesis on January 12, 2013, reminding Belesis that Schreck's letter had been ignored, and requesting that the information regarding Benkovsky's investments be forwarded promptly. See Exhibit B (Hantman letter). As of March 2013, this letter remains unanswered.

Ultimately, JTF's negligence, false and misleading statements, unauthorized trading, lack of supervision, and unsuitable investment recommendations led Benkovsky to belatedly discover that the investment opportunities JTF and its brokers presented to him were nothing more than an elaborate scheme to negligently and/or intentionally defraud investors and generate large fees for JTF and its affiliates through fee commissions and consultant payments.

### CLAIMS

The negligent, false and/or misleading statements and unsuitable investment recommendations made by JTF and its brokers supports claims for actions sounding in common law, FINRA regulations, and SEC violations. As a FINRA member, all Respondents were obligated to comply with all of the organization's regulations governing securities and investments. Additionally, under federal securities laws, all parties engaged in securities transactions in the United States must comply with SEC regulations.

#### **COUNT I**

##### **Violation of Section 10b-5 of the Securities Exchange Act of 1934**

JTF's scheme is a violation of Section 10b-5 of the Securities Exchange Act of 1934, which states:

It shall be unlawful for any person, directly or indirectly, by the use of any means or instrumentality of interstate commerce, or of the mails or of any facility of any national securities exchange,

- (a) To employ any device, scheme, or artifice to defraud,
- (b) To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, or
- (c) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person, in connection with the purchase or sale of any security.

In the course of its investment relationship with Benkovsky, JTF has violated all three sections of 10b-5. JTF created an investment scheme with the goal of defrauding wealthy investors like Benkovsky. In the course of executing its scheme, JTF and its brokers made numerous misrepresentations and omissions to unsuspecting investors, including Benkovsky, who put their trust in JTF's firm.

In addition, it is well settled that claims under Rule 10b-5 arise when brokers purchase or sell securities on behalf of a customer without specific authorization. At least on one occasion, JTF purchased securities on behalf of Benkovsky without his permission or approval, and thus, engaged in unauthorized trading in violation of Rule 10b-5.

## **COUNT II Conversion**

For the reasons set forth above, Respondents converted Benkovsky's money to their own benefit by means of false representations and unsuitable recommendations while conversion or the unauthorized taking/improper use of another property is prohibited under FINRA Regulations including but not limited to FINRA Rule 2010.

## **COUNT III Suitability**

Under FINRA Rule 2111, the organization's members and associated persons are required to recommend investments suitable in light of the client's financial circumstances, risk tolerance,

and market sophistication.

Prior to engaging in business with Mr. Benkovsky, JTF was required to review his investment portfolio, and evaluate factors such as his net worth, tax status, age, general financial needs, risk tolerance, and investment experience.<sup>13</sup> As an unsophisticated investor Benkovsky made it clear that he had no desire to make high risk investments and that he was only interested in low-risk investments that were certain to appreciate in value, even by a small amount. This was expressed to the brokers of JTF at every possible stage of the process. Upon information and belief, JTF specifically targeted Benkovsky due to his lack of investment experience in the hopes that JTF would be able to take advantage of his situation. JTF's recommendations for Benkovsky were based on the investment company's own needs, not those of Mr. Benkovsky. JTF viewed Benkovsky as a high net-worth individual it could easily take advantage of to generate income for the firm and funds managers.

#### **COUNT IV Negligence and Breach of Fiduciary Duty**

JTF owed Benkovsky a duty of reasonable care in the handling of his account, and in doing so breached FINRA Rule 2010. They breached that duty by making unsuitable recommendations and poorly-executed investments, and as a result proximately caused harm to Benkovsky.

Furthermore, when Benkovsky invested with JTF, the two parties entered into a fiduciary relationship. As Benkovsky's agent, JTF owed claimant the utmost duty of care, loyalty, and good faith. *Meinhard v. Salmon*, 164 N.E. 464 (NY 1928). By placing his own financial needs over the best interests of claimant, JTF breached its fiduciary duty to Benkovsky.

The errors on the Bridge and Opportunity Fund records for Mr. Benkovsky's account reflect this negligence. On May 31, 2008, the account balance was \$7,445, and, despite no

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<sup>13</sup> <http://www.finra.org/investors/protectyourself/beforeyouinvest/p197434>

recorded redemptions, the starting balance on June 1, 2008 was \$0. At best, this is a bookkeeping error, but this also demonstrates the possibility that funds may have been intercepted for the personal use of JTF managers.

**COUNT V**  
**Negligent Supervision**

Under the federal securities laws (Exchange Act §15(b)(4)(E) and §15(b)(6)), and FINRA's rules (FINRA Rule 2010), JTF had a duty to supervise its brokers, and JTF breached this duty by failing to do so. To satisfy this requirement, JTF had to have in place supervisory and compliance rules/procedures, and JTF must be able to demonstrate that these were regularly followed. Upon information and belief, Claimant believes that no supervisory or compliance measures were in place at JTF.

**COUNT VI**  
**Control Person Liability and Respondent Superior**

Under Section 20(a) of the Securities Exchange Act, "control persons" such as JTF and Belesis are strictly liable for the conduct of the people they control. Specifically, the rule states that:

Every person who, directly or indirectly, controls any person liable under any provision of this title or of any rule or regulation thereunder shall also be liable jointly and severally with and to the same extent as such controlled person to any person to whom such controlled person is liable, unless the controlling person acted in good faith and did not directly or indirectly induce the act or acts constituting the violation or cause of action.

A similar doctrine exists in the common law, *respondent superior*. Under the doctrine of *respondeat superior*, JTF is answerable for the actions of brokers acting within the scope of their employment. See *New York Islanders Hockey Club v. Comerica Bank-Texas*, 71 F. Supp. 2d 108, 109 (S.D.N.Y. 1999) (noting that the purpose of *respondeat superior* doctrine is to "render the



employer responsible...for the employee's tortious acts, which...were done in furtherance of the employer's business."'). JTF&OF and ATB Holdings each acted within its capacity as a JTF representative when it misled Benkovsky and induced him into investing with JTF and its brokers.

As "control person" and under the doctrine of respondeat superior, JTF is liable for the acts and conduct of all its brokers, employees, affiliates who made misrepresentations and unsuitable recommendations to Benkovsky.

**RELIEF REQUESTED**

Benkovsky is seeking an award for compensatory damages of SIX MILLION DOLLARS, including interest attorney's fees, costs, and other relief as the panel believes to be fair and appropriate. In addition, the Claimant is seeking an award of punitive damages, as may be warranted by the evidence.

Dated: New York, New York  
June 26, 2013

Respectfully submitted,

By:   
Robert J. Hartman, Esq.  
Hantman & Associates  
www.Hantmanlaw.com  
Attorneys for Claimant  
385 Fifth Avenue, Suite 1003  
New York, New York 10001  
212-684-3933

# EXHIBIT A

# Schreck and Company

Certified Public Accountants, P.C.

520 Eighth Avenue - 18th Floor  
New York, New York 10018

(212) 564-4786  
Fax (212) 643-2843

*Via Certified Mail RRR and  
email tbelesis@johnthomasbd.com*

April 24, 2012

Thomas Belesis  
Chief Executive Officer  
John Thomas Financial  
14 Wall Street, 5th Floor  
New York, New York 10005

Re: Steve Benkovsky - Investment Account(s) and investments – You Blast Global Inc. –  
Sahara Media Inc. – Sahara Media Holdings, Inc. - John Thomas Financial –  
John Thomas Opportunity Fund - all other parties

## SHAREHOLDER – INVESTOR REQUEST FOR INFORMATION IMMEDIATE ATTENTION REQUIRED BY JUNE 15, 2012.

Dear Mr. Belesis:

With respect to Mr. Steven Benkovsky's investments totaling approximately \$4.3 million, please provide complete copies of the following documents for each of the companies so named above, but not to be limited to these specific items and any successors, assignees or any other acquiring entities that were recommended to Mr. Benkovsky by John Thomas Financial ("JTF") and their agents, employees, and/or representatives and John Thomas Opportunity Fund (collectively referred to as "JTF" vis a vis (1) YouBlast Global, Inc. (f/k/a Sahara Media Holdings, Inc.) and Sahara Media Inc. from the date of Mr. Benkovsky's investment to date for each and every year.

All accounting books of original entry, check ledgers and cash receipts, cash disbursement, payroll, and all other journals should be provided in electronic format either as Excel spreadsheets, Word documents, or if the native format is proprietary software, then in Adobe PDF. For any accounting records in QuickBooks format, please convert to Excel Spreadsheets or provide as they are maintained in the corporation's accounting/bookkeeping software system, along with hardcopies of same; or in the alternative, provide a complete back up copy and provide all passwords and information in order to open and use the electronic format.

1. All expense reimbursement reports, and all documents relating thereto in electronic format as they are maintained in the Corporation's accounting/bookkeeping software system, as well as hardcopies of same.

2. Monthly bank statements for each and every bank account complete with all copies of canceled checks both front and backs and inclusive of all wire information of all remittances.
3. General Ledger complete with general journal ledger entries and year end closing entries.
4. Cash Receipts Register, including credit card receipts and incoming wire transfers.
5. Cash Disbursements Register, including cancelled checks and outgoing wire transfers.
6. Payroll Register and all quarterly and year end filed payroll tax reports inclusive of individual employee earnings records and all issued W-2 and 1099 forms.
7. Vendor invoices.
8. Credit card statements by named user.
9. Sales and Subscription Journals and stock ledger book.
10. All merchant agreements with credit card companies.
11. All third party vendors, consultant or other contracts and agreements including but not limited to contracts.
12. Information regarding current or past banking relationships used for investing, depositing cash receipts, and/or processing payments. Such information should include but not be limited to:
  - a. Account Number
  - b. Account Type
  - c. Name of Account Representative, address, telephone number and e-mail
  - d. Contact information of Account Representative, including name, address, telephone number and e mail of contact
13. Contact Information for internal financial and accounting personnel at Youblast who will be involved in providing information or responding to inquiries in connection with this matter.
14. Contact Information for any Certified Public Accounting (CPA) firm and consulting firm that has provided audit, review, compilation or other services to Youblast.
15. Details to transactions pertaining to all wire transfers.
16. Details to transactions pertaining to all foreign bank accounts.
17. Details to transactions pertaining to all operating accounts.

18. Copies of all tax returns regardless of the tax matter.
19. List and location of all assets including the on line version of Honey Mag online, the Hive, and all data bases.
20. To the extent any of these assets were sold copies of all sale contracts.
21. All documents, including any email or any other electronic communications or any document stored electronically, concerning or relating or referring to any offer or proposal or any communications from any third-party concerning or relating or referring to any offer or proposal to purchase or invest in the companies referred to above including Fileblaze.
22. Year End Income Statement(s) for all years beginning two years prior to the investment of Mr. Benkovsky through December 31, 2011.
23. Year End Cash Flow Statement(s) for all years beginning two years prior to the investment of Mr. Benkovsky through December 31, 2011.
24. Year End Balance Sheet(s) for all years beginning two years prior to the investment of Mr. Benkovsky through December 31, 2011.
25. Year to Date Income Statements for all years beginning two years prior to the investment of Mr. Benkovsky through December 31, 2011.
26. Year to Date Cash Flow Statement for all years beginning two years prior to the investment of Mr. Benkovsky through December 31, 2011.
27. Year End Profit and Loss Statements for all years beginning two years prior to the investment of Mr. Benkovsky through December 31, 2011.
28. Year to Date Balance Sheets for all years beginning two years prior to the investment of Mr. Benkovsky through December 31, 2011.
29. Complete and detailed written summary or reports, if any, of any business activity that the companies engaged in.
30. All financial statements, prospective letters, contracts, invoices and other related documents concerning any business activity that the companies have engaged in.
31. All Board of Director names and contact information from the inception of the Company's formation.
32. All Board of Directors minutes from the inception of the Company's formation and a complete listing of the Directors with their contact information.

33. All resolutions passed by the Board of Directors from the inception of the Company's formation.
34. All shareholder meeting minutes from the inception of the Company's formation.
35. All consultant agreements.
36. All employment agreements.
37. All audited financial statements.
38. Contact information for all Company auditors.
39. Contact information of the Company attorneys utilized for any Company reason for all years since formation of Company.
40. Contact information of the Company's insurance companies, A & E and D & O and copies of all insurance policies existing and/or lapsed.
41. Contact information of the Company's insurance broker or brokers.
42. Contact information of the Company's compliance officer or officers.
43. Contact information of the Company's bankers.
44. Copies of all FINRA complaints relating directly or indirectly to the companies.
45. Copies of all FINRA complaints against JTF.
46. All fees paid to JTF as a result of the raising of funding for the companies.
47. Information and calculations to determine relative to all penalty shares if any acquired by JTF from the companies.
48. All interest payments received by JTF by the companies.
49. All political contributions.
50. All agreements related to You Blast "cloud technology", Chuck Baker and Jeff Forester.
51. All consultant fees paid to Thomas Belesis, or his spouse, and any other family member from the companies.
52. All fees paid to Philmore Anderson IV or related family members.

53. All lawsuits, if any, that the Company, its officers, Board of Directors or employee was or is involved in and legal fees paid for or on his behalf.
54. All fees paid to CEO Jeff Forester and any other officer, for any and all reasons. Information relative to any loans made to any and all shareholders and or officers.
55. All shareholder names and addresses and their respective ownership interest in each respective entity.
56. Corporate by-laws.
57. Entity Operating Agreements and Equity participant agreements.
58. Documents concerning changes to the Company's corporate by-laws, including copies of the by-laws prior to and after said changes, the date each change was made and a record of those present and how each voted during and for said changes.
59. Complete and detailed written status report of all pending litigation(s).
60. All financial statements, retainer letters, correspondences, contracts, invoices, pleadings, and all related documents in connection with all prior and settled litigation.
61. All commissions, referral fees or any other such fees paid to third parties as a result of Mr. Benkovsky's investments complete with to who with their respective contact information.
62. All preliminary agreements, emails, Company transcript between YouBlast and FileBlaze as to an anticipated merger.
63. All FOCUS REPORTS.
64. All FINRA disciplinary reports and copies of all FINRA related hearings in which company was involved.
65. All documents and communications concerning or related to Mr. Benkovsky's investments including (but not limited to) offering memoranda, subscription agreements, risk disclosure statements, etc.
66. All documents concerning commissions, fees or other monies received by JTF as a result of Mr. Benkovsky's investments.
67. All documents concerning any agreements between JTF and the companies Mr. Benkovsky invested in.
68. All documents concerning communications, including internal communications, concerning Mr. Benkovsky's accounts and his investments.

69. All notes, memorandum or other documents by JTF and the companies including entries in any diary or calendar, concerning Mr. Benkovsky's accounts and his investments.
70. All recordings and/or notes of telephone calls or conversations concerning Mr. Benkovsky's accounts and his investments.
71. All documents concerning any communications between and amongst any employee, agent or representative of JTF, et al relating to Mr. Benkovsky and his investments.
72. All of JTF Forms RE-3, U-4, and U-5, or similar documents, if any, including all amendments, and copies of all customer complaints identified in such forms.
73. All analyses and reconciliations of transactions in Mr. Benkovsky's account(s).
74. All responses by JTF to all customer complaints, civil actions and arbitration proceedings in which JTF and any of its employees, agents and representatives have been a party, and copies of all decisions and awards.
75. All documents relating to any criminal investigation, proceedings or charges against JTF or any of their employees, agents and representatives either before or after Mr. Benkovsky's investments.
76. All procedures or supervisory memorandum, manuals, bylaws, or other documents setting forth the duties and responsibilities of JTF and any management or supervising employees of JTF.
77. Copies of all due diligence materials prepared or used by JTF relating to all of Mr. Benkovsky's investments including research reports, worksheets, prospectuses, and other offering documents, including documents intended or identified as being "for internal use only".
78. All documents concerning commissions or other fees relating to Mr. Benkovsky's account(s) received by JTF.
79. All documents reflecting compensation of any kind received by JTF relating to Mr. Benkovsky's accounts and from companies that his funds were invested in.
80. Documents sufficient to describe, or set forth, the basis upon which all persons, employed by the Company or otherwise, were compensated by JTF including: a) any bonus or incentive program; and b) all compensation and commission schedules showing compensation received or to be received based upon volume, type of product sold, nature of trade, etc.
81. All exception reports and supervisory activity reviews of any person that had contact with Mr. Benkovsky.



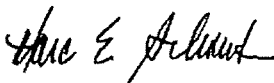
82. Those portions of examination reports or similar reports following any examination or an inspection conducted by any state or federal agency or any self-regulatory organization concerning activities by JTF or improper behavior at JTF relating to all companies in which JTF was the broker – dealer and/or investment banker.
83. Copies of all telephone records, including telephone logs, evidencing telephone contact between Mr. Benkovsky and JTF and their employees, agents and representatives.
84. All written statements by persons with knowledge of the facts and circumstances giving rise to my investments.
85. Set forth the monies raised by JTF and the use of proceeds for any and all mentioned entities.
86. Copies of all presentations made to Mr. Benkovsky in which Chuck Baker participated.
87. Copies of all presentations made to Mr. Benkovsky in which Jeff Forester participated.
88. Copies of all presentations made to Mr. Benkovsky in which Philmore Anderson IV participated.
89. All reasons why Philmore Anderson IV is no longer an employee of You Blast.
90. Reconciliation of sources of raises and detailed analysis of the use of proceeds.
91. Information as to how the raised proceeds were utilized for the intended purpose and what was expected to be achieved.
92. Describe relationship of all vendors and payees who obtained proceeds resulting from all raises.

This is not intended to be a fully exhaustive request but rather an initial request to help us properly review the propriety and status of Mr. Benkovsky's investments, account balances and the use of the proceeds derived from investments made by Mr. Benkovsky.

Thank you for your prompt attention to our requests.

Very truly yours,

SCHRECK AND COMPANY, CPA, P.C.



Marc E. Schreck  
Certified Public Accountant

MES/me  
cc: Steven Benkovsky

Schreck and Company  
Certified Public Accountants, P.C.

# EXHIBIT B

**HANTMAN & ASSOCIATES**  
**ATTORNEYS AT LAW**  
1515 Broadway  
11<sup>TH</sup> FLOOR  
NEW YORK, NEW YORK 10036  
(212) 684-3933  
FAX (212) 520-4301  
[www.Hantmanlaw.com](http://www.Hantmanlaw.com)

**ZACHARY A. KOZAK**  
(212) 520-4302 – DIRECT DIAL  
[ZKozak@Hantmanlaw.com](mailto:ZKozak@Hantmanlaw.com)

New York & New Jersey Bars

January 12, 2013

**Via E-Mail Only**

Thomas Belesis  
Chief Executive Officer  
John Thomas Financial  
14 Wall Street, 5<sup>th</sup> Floor  
New York, New York 10005  
[tbelesis@johnthomasbd.com](mailto:tbelesis@johnthomasbd.com)

**Re: Steven Benkovsky – Triple S Air Systems Inc.**

Dear Mr. Belesis

Our firm has been retained by Mr. Benkovsky with respect to certain investments that he made through John Thomas Financial (“JTF”) and its brokers since 2007.

In an effort to objectively evaluate the legitimacy, propriety, and suitability of his investments we understand that his accountant, Marc E. Schreck of Schreck and Company CPA, P.C., has made repeated requests for certain information from JTF. Attached is at least one of the previous requests.

To date, the majority of the information requested has not been provided in response thereto. In an effort to professionally and objectively resolve this impasse we are requesting that you please provide those items previously requested and not turned over. In addition, please provide the following to the extent not already included in the client’s previous request:

- 1) “New Account Form” for Mr. Benkovsky;
- 2) “Notice of Members”, U 4 and U 5 Forms;
- 3) All Rule 99-90 documents;
- 4) JTF “Policy and Procedure Manual”
- 5) JTF Compliance Manual;

NEW JERSEY:  
JOSEPH J. FERRARA  
OF COUNSEL  
111 PATTERSON AVENUE  
HOBOKEN, NEW JERSEY 07030

CALIFORNIA:  
THE LAW OFFICES OF DAVID GRAZIANI, P.C.  
OF COUNSEL  
9107 WILSHIRE BLVD, SUITE 450  
BEVERLY HILLS, CALIFORNIA 90210

FLORIDA:  
ROSEN SWITKES & ENTIN  
OF COUNSEL  
407 LINCOLN RD, PH SE  
MIAMI BEACH, FLORIDA 33139

PLEASE SEND ALL CORRESPONDENCE TO THE NEW YORK, NY ADDRESS LISTED ABOVE

- 6) The present status of all his investments,
- 7) What the stock is worth now,
- 8) Is it marketable,
- 9) Is the company still in business, and if so, the contact information of each companies Chief Operating Officer and Chief Executive Officer.
- 10) The amount of stock that was ever owned or still owned by JTF or The John Thomas Bridge and Opportunity Fund in the companies that Mr. Benkovsky invested in directly or through The John Thomas Bridge and Opportunity Fund.
- 11) Names of all broker or brokers who set up the investment(s) and their supervisors.
- 12) Names and addresses of all members of the Board of Directors for every company invested in by Mr. Benkovsky.

I thank you for your anticipated cooperation in this matter.

Very truly yours,

**Hantman & Associates**

ZAK  
Zachary A. Kozak

NEW JERSEY:  
JOSEPH J. FERRARA  
OF COUNSEL  
111 PATTERSON AVENUE  
HOBOKEN, NEW JERSEY 07030

CALIFORNIA:  
THE LAW OFFICES OF DAVID GRAZIANI, P.C.  
OF COUNSEL  
9107 WILSHIRE BLVD, SUITE 450  
BEVERLY HILLS, CALIFORNIA 90210

FLORIDA:  
ROSEN SWITKES & ENTIN  
OF COUNSEL  
407 LINCOLN RD, PH SE  
MIAMI BEACH, FLORIDA 33139

PLEASE SEND ALL CORRESPONDENCE TO THE NEW YORK, NY ADDRESS LISTED ABOVE.

# EXHIBIT C



## BrokerCheck Report

JOHN THOMAS FINANCIAL

CRD# 40982

Report #70441-61163, data current as of Sunday, June 09, 2013.

<u>Section Title</u>	<u>Page(s)</u>
Report Summary	1
Firm Profile	2 - 5
Firm History	6
Firm Operations	7 - 13
Disclosure Events	14

## About BrokerCheck®

BrokerCheck offers information on all current and many former-FINRA-registered securities brokers, and all current and former FINRA-registered securities firms. FINRA strongly encourages investors to use BrokerCheck to check the background of securities brokers and brokerage firms before deciding to conduct, or continue to conduct, business with them.

- **What is included in a BrokerCheck report?**

BrokerCheck reports for individual brokers include information such as employment history, professional qualifications, disciplinary actions, criminal convictions, civil judgments and arbitration awards. BrokerCheck reports for brokerage firms include information on a firm's profile, history, and operations, as well as many of the same disclosure events mentioned above.

Please note that the information contained in a BrokerCheck report may include pending actions or allegations that may be contested, unresolved or unproven. In the end, these actions or allegations may be resolved in favor of the broker or brokerage firm, or concluded through a negotiated settlement with no admission or finding of wrongdoing.

- **Where did this information come from?**

The information contained in BrokerCheck comes from FINRA's Central Registration Depository, or CRD® and is a combination of:

- information FINRA and/or the Securities and Exchange Commission (SEC) require brokers and brokerage firms to submit as part of the registration and licensing process, and
- information that regulators report regarding disciplinary actions or allegations against firms or brokers.

- **How current is this information?**

Generally, active brokerage firms and brokers are required to update their professional and disciplinary information in CRD within 30 days. Under most circumstances, information reported by brokerage firms, brokers and regulators is available in BrokerCheck the next business day.

- **What if I want to check the background of an investment adviser firm or investment adviser representative?**

To check the background of an investment adviser firm or representative, you can search for the firm or individual in BrokerCheck. If your search is successful, click on the link provided to view the available licensing and registration information in the SEC's Investment Adviser Public Disclosure (IAPD) website at <http://www.adviserinfo.sec.gov>. In the alternative, you may search the IAPD website directly or contact your state securities regulator at <http://www.nasaa.org>.

- **Are there other resources I can use to check the background of investment professionals?**

FINRA recommends that you learn as much as possible about an investment professional before deciding to work with them. Your state securities regulator can help you research brokers and investment adviser representatives doing business in your state.

Thank you for using FINRA BrokerCheck.



Using this site/information means that you accept the FINRA BrokerCheck Terms and Conditions. A complete list of Terms and Conditions can be found at

[brokercheck.finra.org](http://brokercheck.finra.org)



For additional information about the contents of this report, please refer to the User Guidance or [www.finra.org/brokercheck](http://www.finra.org/brokercheck). It provides a glossary of terms and a list of frequently asked questions as well as additional resources. For more information about FINRA, visit [www.finra.org](http://www.finra.org).

## JOHN THOMAS FINANCIAL

CRD# 40982

SEC# 8-49254

### Main Office Location

14 WALL STREET  
23RD FLOOR  
NEW YORK, NY 10005  
Regulated by FINRA New York Office

### Mailing Address

14 WALL STREET  
23RD FLOOR  
NEW YORK, NY 10005

### Business Telephone Number

212-299-7816

This firm is a brokerage firm and an investment adviser firm. For more information about investment adviser firms, visit the SEC's Investment Adviser Public Disclosure website at:

<http://www.adviserinfo.sec.gov>

## Report Summary for this Firm

This report summary provides an overview of the brokerage firm. Additional information for this firm can be found in the detailed report.

### Firm Profile

This firm is classified as a corporation.

This firm was formed in New York on 06/20/1996.

Its fiscal year ends in May.

### Firm History

Information relating to the brokerage firm's history such as other business names and successions (e.g., mergers, acquisitions) can be found in the detailed report.

### Firm Operations

This firm is registered with:

- the SEC
- 2 Self-Regulatory Organizations
- 53 U.S. states and territories

Is this brokerage firm currently suspended with any regulator? **No**

This firm conducts 17 types of businesses.

This firm is affiliated with financial or investment institutions.

This firm does not have referral or financial arrangements with other brokers or dealers.



### Disclosure Events

Disclosure events are certain criminal matters, regulatory actions, civil judicial proceedings, and financial matters in which the brokerage firm or one of its control affiliates has been involved.

Are there events disclosed about this firm? **Yes**

The following types of disclosures were reported:

Regulatory Event

Arbitration





## **Firm Profile**

This firm is classified as a corporation.

This firm was formed in New York on 06/20/1996.

Its fiscal year ends in May.

## **Firm Names and Locations**

This section provides the brokerage firm's full legal name, "Doing Business As" name, business and mailing addresses, telephone number, and any other name by which the firm conducts business and where such name is used.

### **JOHN THOMAS FINANCIAL**

Doing business as JOHN THOMAS FINANCIAL

CRD# 40982

SEC# 8-49254

### **Main Office Location**

14 WALL STREET  
23RD FLOOR  
NEW YORK, NY 10005

Regulated by FINRA New York Office

### **Mailing Address**

14 WALL STREET  
23RD FLOOR  
NEW YORK, NY 10005

### **Business Telephone Number**

212-299-7816

## Firm Profile

This section provides information relating to all direct owners and executive officers of the brokerage firm.



### Direct Owners and Executive Officers

**Legal Name & CRD# (if any):** ATB HOLDING COMPANY LLC

**Is this a domestic or foreign entity or an individual?** Domestic Entity

**Position** SOLE MEMBER

**Position Start Date** 02/2007

**Percentage of Ownership** 75% or more

**Does this owner direct the management or policies of the firm?** Yes

**Is this a public reporting company?** No

**Legal Name & CRD# (if any):** BELESIS, ANASTASIOS P  
2707354

**Is this a domestic or foreign entity or an individual?** Individual

**Position** CHIEF EXECUTIVE OFFICER

**Position Start Date** 01/2008

**Percentage of Ownership** Less than 5%

**Does this owner direct the management or policies of the firm?** Yes

**Is this a public reporting company?** No

**Legal Name & CRD# (if any):** CASTELLANO, JOSEPH LOUIS  
1158479

**Is this a domestic or foreign entity or an individual?** Individual

**Position** CHIEF COMPLIANCE OFFICER

**Position Start Date** 03/2009

**Firm Profile****Direct Owners and Executive Officers (continued)**

**Percentage of Ownership** Less than 5%

**Does this owner direct the management or policies of the firm?** Yes

**Is this a public reporting company?** No

**Legal Name & CRD# (if any):** EGAN, MICHAEL ROBERT  
2269012

**Is this a domestic or foreign entity or an individual?** Individual

**Position** SROP

**Position Start Date** 11/2011

**Percentage of Ownership** Less than 5%

**Does this owner direct the management or policies of the firm?** No

**Is this a public reporting company?** No

**Legal Name & CRD# (if any):** MISITI, MICHELE ANN  
1931272

**Is this a domestic or foreign entity or an individual?** Individual

**Position** BRANCH OFFICE MANAGER

**Position Start Date** 11/2011

**Percentage of Ownership** Less than 5%

**Does this owner direct the management or policies of the firm?** No

**Is this a public reporting company?** No

## Firm Profile

This section provides information relating to any indirect owners of the brokerage firm.



### Indirect Owners

<b>Legal Name &amp; CRD# (if any):</b>	BELESIS, ANASTASIOS P 2707354
<b>Is this a domestic or foreign entity or an individual?</b>	Individual
<b>Company through which Indirect ownership is established</b>	ATB HOLDING COMPANY LLC
<b>Relationship to Direct Owner</b>	MANAGING MEMBER
<b>Relationship Established</b>	09/2006
<b>Percentage of Ownership</b>	75% or more
<b>Does this owner direct the management or policies of the firm?</b>	Yes
<b>Is this a public reporting company?</b>	No

## Firm History

This section provides information relating to any successions (e.g., mergers, acquisitions) involving the firm.

No information reported.



## Firm Operations



### Registrations

This section provides information about the regulators (Securities and Exchange Commission (SEC), self-regulatory organizations (SROs), and U.S. states and territories) with which the brokerage firm is currently registered and licensed, the date the registration became effective, and certain information about the firm's SEC registration.

**This firm is currently registered with the SEC, 2 SROs and 53 U.S. states and territories.**

Federal Regulator	Status	Date Effective
SEC	Approved	01/10/1997

### SEC Registration Questions

This firm is registered with the SEC as:

A broker-dealer: Yes

A broker-dealer and government securities broker or dealer: Yes

A government securities broker or dealer only: No

This firm has ceased activity as a government securities broker or dealer: No

Self-Regulatory Organization	Status	Date Effective
FINRA	Approved	01/10/1997
NASDAQ Stock Market	Approved	01/29/2009

## Firm Operations



### Registrations (continued)

U.S. States & Territories	Status	Date Effective	U.S. States & Territories	Status	Date Effective
Alabama	Approved	02/01/2007	North Carolina	Approved	01/05/2007
Alaska	Approved	01/16/2007	North Dakota	Approved	01/17/2007
Arizona	Approved	01/29/2007	Ohio	Approved	01/18/2007
Arkansas	Approved	01/16/2007	Oklahoma	Approved	01/19/2007
California	Approved	01/03/2007	Oregon	Approved	01/12/2007
Colorado	Approved	01/08/2007	Pennsylvania	Approved	01/12/2007
Connecticut	Approved	03/26/1997	Puerto Rico	Approved	01/25/2007
Delaware	Approved	01/16/2007	Rhode Island	Approved	01/11/2007
District of Columbia	Approved	01/24/2007	South Carolina	Approved	01/11/2007
Florida	Approved	01/16/2007	South Dakota	Approved	01/03/2007
Georgia	Approved	01/16/2007	Tennessee	Approved	06/04/2007
Hawaii	Approved	01/22/2007	Texas	Approved	01/18/2007
Idaho	Approved	01/08/2007	Utah	Approved	01/09/2007
Illinois	Approved	01/16/2007	Vermont	Approved	02/13/2007
Indiana	Approved	01/25/2007	Virgin Islands	Approved	01/07/2008
Iowa	Approved	01/19/2007	Virginia	Approved	01/09/2007
Kansas	Approved	08/22/2007	Washington	Approved	01/03/2007
Kentucky	Approved	01/09/2007	West Virginia	Approved	01/03/2007
Louisiana	Approved	01/10/2007	Wisconsin	Approved	01/17/2007
Maine	Approved	03/05/2007	Wyoming	Approved	01/23/2007
Maryland	Approved	01/11/2007			
Massachusetts	Approved	01/16/2007			
Michigan	Approved	01/19/2007			
Minnesota	Approved	01/08/2007			
Mississippi	Approved	01/09/2007			
Missouri	Approved	01/22/2007			
Montana	Approved	01/10/2007			
Nebraska	Approved	01/30/2007			
Nevada	Approved	01/08/2007			
New Hampshire	Approved	02/26/2007			
New Jersey	Approved	01/24/1997			
New Mexico	Approved	01/22/2007			
New York	Approved	08/05/1996			

## Firm Operations



### Types of Business

This section provides the types of business, including non-securities business, the brokerage firm is engaged in or expects to be engaged in.

**This firm currently conducts 17 types of businesses.**

#### Types of Business

Broker or dealer retailing corporate equity securities over-the-counter

Broker or dealer selling corporate debt securities

Underwriter or selling group participant (corporate securities other than mutual funds)

Mutual fund retailer

U.S. government securities broker

Municipal securities broker

Broker or dealer selling variable life insurance or annuities

Real estate syndicator

Broker or dealer selling oil and gas interests

Put and call broker or dealer or option writer

Investment advisory services

Broker or dealer selling tax shelters or limited partnerships in primary distributions

Broker or dealer selling tax shelters or limited partnerships in the secondary market

Non-exchange member arranging for transactions in listed securities by exchange member

Trading securities for own account

Private placements of securities

Other

#### Other Types of Business

This firm does not affect transactions in commodities, commodity futures, or commodity options.

This firm does not engage in other non-securities business.

Non-Securities Business Description:



## **Firm Operations**



### **Clearing Arrangements**

**This firm does not hold or maintain funds or securities or provide clearing services for other broker-dealer(s).**

### **Introducing Arrangements**

**This firm does not refer or introduce customers to other brokers and dealers.**

**Firm Operations****Industry Arrangements**

**This firm does have books or records maintained by a third party.**

**Name:** STERNE, AGEE & LEACH, INC.  
**CRD #:** 791  
**Business Address:** 800 SHADES CREEK PKWY SUITE 700  
BIRMINGHAM, AL 35209  
**Effective Date:** 01/16/2007  
**Description:** FULLY DISCLOSED CLEARING FIRM

**This firm does have accounts, funds, or securities maintained by a third party.**

**Name:** STERNE, AGEE & LEACH, INC.  
**CRD #:** 791  
**Business Address:** 800 SHADES CREEK PKWY SUITE 700  
BIRMINGHAM, AL 35209  
**Effective Date:** 01/16/2007  
**Description:** FULLY DISCLOSED CLEARING FIRM

**This firm does have customer accounts, funds, or securities maintained by a third party.**

**Name:** STERNE, AGEE & LEACH, INC.  
**CRD #:** 791  
**Business Address:** 800 SHADES CREEK PKWY SUITE 700  
BIRMINGHAM, AL 35209  
**Effective Date:** 01/16/2007  
**Description:** FULLY DISCLOSED CLEARING FIRM

**Control Persons/Financing**

**This firm does not have individuals who control its management or policies through agreement.**

**This firm does not have individuals who wholly or partly finance the firm's business.**

## Firm Operations



### Organization Affiliates

This section provides information on control relationships the firm has with other firms in the securities, investment advisory, or banking business.

This firm is, directly or indirectly:

- in control of
- controlled by
- or under common control with

the following partnerships, corporations, or other organizations engaged in the securities or investment advisory business.

**JTF PRIVATE WEALTH MANAGEMENT, LLC is under common control with the firm.**

**CRD #:** 157370

**Business Address:** 14 WALL STREET  
23RD FLOOR  
NEW YORK, NY 10005

**Effective Date:** 06/15/2011

**Foreign Entity:** No

**Country:**

**Securities Activities:** No

**Investment Advisory Activities:** Yes

**Description:** J.T.F. PRIVATE WEALTH MANAGEMENT, LLC, IS OWNED BY ATB III HOLDING, LLC WHOSE INDIRECT OWNER IS ANASTASIOS BELESIS WHO IS ALSO THE INDIRECT OWNER OF ATB HOLDING COMPANY, LLC, WHICH IS THE DIRECT OWNER OF JOHN THOMAS FINANCIAL.

**FOUR POINTS CAPITAL PARTNERS LLC is under common control with the firm.**

**CRD #:** 43149

**Business Address:** 303 SOUTH BROADWAY  
TARRYTOWN, NY 10591

**Effective Date:** 04/08/2009

**Foreign Entity:** No

**Country:**

**Securities Activities:** Yes

**Investment Advisory Activities:** No



**Organization Affiliates (continued)**

**Description:** BOTH APPLICANT AND FOUR POINTS CAPITAL PARTNERS SERVICES LLC ARE UNDER COMMON DIRECT OWNERSHIP WITH ATB HOLDING COMPANY LLC. AND MR. ANASTASIOS BELESIS IS AN INDIRECT OWNER OF BOTH FIRMS THROUGH ATB.

**This firm is not directly or indirectly, controlled by the following:**

- bank holding company
- national bank
- state member bank of the Federal Reserve System
- state non-member bank
- savings bank or association
- credit union
- or foreign bank

## Disclosure Events



Disclosure events are certain criminal matters, regulatory actions, civil judicial proceedings, and financial matters in which the brokerage firm or one of its control affiliates has been involved. For your convenience, below is a matrix of the number and status of disclosure events involving this brokerage firm or one of its control affiliates. Further information regarding these disclosure events can be found in the subsequent pages of this report.

	Pending	Final	On Appeal
Regulatory Event	2	5	0
Arbitration	N/A	1	N/A



## Disclosure Event Details

### What you should know about reported disclosure events:

1. **BrokerCheck provides details for any disclosure event that was reported in CRD. It also includes summary information regarding FINRA arbitration awards in cases where the brokerage firm was named as a respondent.**
2. **Certain thresholds must be met before an event is reported to CRD, for example:**
  - A law enforcement agency must file formal charges before a brokerage firm is required to report a particular criminal event.
3. **Disclosure events in BrokerCheck reports come from different sources:**
  - Disclosure events for this brokerage firm were reported by the firm and/or regulators. When the firm and a regulator report information for the same disclosure event, both versions of the event will appear in the BrokerCheck report. The different versions will be separated by a solid line with the reporting source labeled.
4. **There are different statuses and dispositions for disclosure events:**
  - A disclosure event may have a status of *pending*, *on appeal*, or *final*.
    - A "pending" disclosure event involves allegations that have not been proven or formally adjudicated.
    - A disclosure event that is "on appeal" involves allegations that have been adjudicated but are currently being appealed.
    - A "final" disclosure event has been concluded and its resolution is not subject to change.
  - A final disclosure event generally has a disposition of *adjudicated*, *settled* or *otherwise resolved*.
    - An "adjudicated" matter includes a disposition by (1) a court of law in a criminal or civil matter, or (2) an administrative panel in an action brought by a regulator that is contested by the party charged with some alleged wrongdoing.
    - A "settled" matter generally represents a disposition wherein the parties involved in a dispute reach an agreement to resolve the matter. Please note that firms may choose to settle customer disputes or regulatory matters for business or other reasons.
    - A "resolved" matter usually includes a disposition wherein no payment is made to the customer or there is no finding of wrongdoing on the part of the individual broker. Such matters generally involve customer disputes.
5. **You may wish to contact the brokerage firm to obtain further information regarding any of the disclosure events contained in this BrokerCheck report.**

### Regulatory - Final

This type of disclosure event involves (1) a final, formal proceeding initiated by a regulatory authority (e.g., a state securities agency, self-regulatory organization, federal regulator such as the U.S. Securities and Exchange Commission, foreign financial regulatory body) for a violation of investment-related rules or regulations; or (2) a revocation or suspension of the authority of a brokerage firm or its control affiliate to act as an attorney, accountant or federal contractor.

#### Disclosure 1 of 5

Reporting Source: Regulator



**Current Status:** Final  
**Allegations:** THE TRUE NATURE OF THE HANDLING FEE WAS NOT PROPERLY DISCLOSED BY JOHN THOMAS TO ARKANSAS CLIENTS.  
**Initiated By:** ARKANSAS SECURITIES DEPARTMENT  
**Date Initiated:** 09/25/2012  
**Docket/Case Number:** S-11-0348-12-OR01  
**Principal Product Type:** Equity Listed (Common & Preferred Stock)  
**Other Product Type(s):**  
**Principal Sanction(s)/Relief Sought:** Civil and Administrative Penalt(ies) /Fine(s)  
**Other Sanction(s)/Relief Sought:** REFUND AND RETURN OF HANDLING FEES TO ARKANSAS CLIENTS  
**Resolution:** Consent  
**Resolution Date:** 09/25/2012  
**Does the order constitute a final order based on violations of any laws or regulations that prohibit fraudulent, manipulative, or deceptive conduct?** No  
**Sanctions Ordered:** Monetary/Fine \$25,000.00  
**Other Sanctions Ordered:** REFUND AND RETURN OF HANDLING FEES IN THE AMOUNT OF \$17,421.67 TO ARKANSAS CLIENTS  
**Sanction Details:** THE ENTIRE \$25,000 FINE WAS LEVIED AGAINST JOHN THOMAS FINANCIAL WITH NO PORTION OF THE FINE BEING WAIVED.

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**Reporting Source:** Firm  
**Current Status:** Final  
**Allegations:** FEES WERE NOT PROPERLY DISCLOSED  
**Initiated By:** ARKANSAS SECURITIES DEPARTMENT  
**Date Initiated:** 09/25/2012  
**Docket/Case Number:** S-11-0348-12-OR01  
**Principal Product Type:** Equity Listed (Common & Preferred Stock)

**Other Product Type(s):**

**Principal Sanction(s)/Relief Sought:** Civil and Administrative Penalt(ies) /Fine(s)

**Other Sanction(s)/Relief Sought:** RETURN OF FEES

**Resolution:** Consent

**Resolution Date:** 09/25/2012

**Sanctions Ordered:** Monetary/Fine \$25,000.00

**Other Sanctions Ordered:** RETURN FEES IN THE AMOUNT OF \$17,421.67

**Sanction Details:** THE ENTIRE \$25,000 FINE WAS LEVIED AGAINST JOHN THOMAS FINANCIAL WITH NO PORTION OF THE FINE BEING WAIVED.

**Disclosure 2 of 5**

**Reporting Source:** Regulator

**Current Status:** Final

**Allegations:** FINRA RULE 7450 - JOHN THOMAS FINANCIAL FAILED TO TRANSMIT NUMEROUS REPORTABLE ORDER EVENTS (ROES) TO THE ORDER AUDIT TRAIL SYSTEM (OATS)IT WAS REQUIRED TO TRANSMIT.

**Initiated By:** FINRA

**Date Initiated:** 04/24/2012

**Docket/Case Number:** 2009018981201

**Principal Product Type:** No Product

**Other Product Type(s):**

**Principal Sanction(s)/Relief Sought:**

**Other Sanction(s)/Relief Sought:**

**Resolution:** Acceptance, Waiver & Consent(AWC)

**Resolution Date:** 04/24/2012





**Does the order constitute a final order based on violations of any laws or regulations that prohibit fraudulent, manipulative, or deceptive conduct?** No

**Sanctions Ordered:** Monetary/Fine \$5,000.00

**Other Sanctions Ordered:**

**Sanction Details:** WITHOUT ADMITTING OR DENYING THE FINDINGS, THE FIRM CONSENTED TO THE DESCRIBED SANCTION AND TO THE ENTRY OF FINDINGS; THEREFORE, THE FIRM IS FINED \$5,000. FINE PAID IN FULL ON MAY 8, 2012.

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**Reporting Source:** Firm

**Current Status:** Final

**Allegations:** FINRA RULE 7450 - JOHN THOMAS FINANCIAL FAILED TO TRANSMIT NUMEROUS REPORTABLE ORDER EVENTS (ROES) TO THE ORDER AUDIT TRAIL SYSTEM (OATS) IT WAS REQUIRED TO TRANSMIT.

**Initiated By:** FINRA

**Date Initiated:** 04/24/2012

**Docket/Case Number:** 2009018981201

**Principal Product Type:** No Product

**Other Product Type(s):**

**Principal Sanction(s)/Relief Sought:**

**Other Sanction(s)/Relief Sought:**

**Resolution:** Acceptance, Waiver & Consent(AWC)

**Resolution Date:** 04/24/2012

**Sanctions Ordered:** Monetary/Fine \$5,000.00

**Other Sanctions Ordered:**

**Sanction Details:** WITHOUT ADMITTING OR DENYING THE FINDINGS, THE FIRM CONSENTED TO THE DESCRIBED SANCTION AND TO THE ENTRY OF FINDINGS; THEREFORE, THE FIRM IS FINED \$5,000.

**Disclosure 3 of 5**

**Reporting Source:** Regulator

**Current Status:** Final

**Allegations:** ON OCTOBER 18, 2011, THE BANKING COMMISSIONER ENTERED A CONSENT ORDER (NO. CO-11-7904-S) WITH RESPECT TO JOHN THOMAS FINANCIAL. THE CONSENT ORDER ALLEGED THAT THE FIRM FAILED TO ESTABLISH, ENFORCE AND MAINTAIN A SUPERVISORY SYSTEM REASONABLY DESIGNED TO OVERSEE AGENTS ENGAGING IN INACCURATE DISCLOSURE PRACTICES WITH RESPECT TO "HANDLING FEES" CHARGED TO CERTAIN CONNECTICUT CUSTOMERS BETWEEN JULY 2007 TO JULY 2009. THE AGENTS ALLEGEDLY REPRESENTED THAT THE "HANDLING FEE" WAS A TICKET CHARGE ASSESSED BY THE CLEARING FIRM, RATHER THAN REVENUE TO JOHN THOMAS FINANCIAL.

**Initiated By:** CONNECTICUT

**Date Initiated:** 10/18/2011

**Docket/Case Number:** CO-11-7904-S

**Principal Product Type:** No Product

**Other Product Type(s):**

**Principal Sanction(s)/Relief Sought:** Civil and Administrative Penalt(ies) /Fine(s)

**Other Sanction(s)/Relief Sought:**

**Resolution:** Consent

**Resolution Date:** 10/18/2011

**Does the order constitute a final order based on violations of any laws or regulations that prohibit fraudulent, manipulative, or deceptive conduct?** No

**Sanctions Ordered:** Monetary/Fine \$20,000.00  
Cease and Desist/Injunction

**Other Sanctions Ordered:** THE CONSENT ORDER FINED JOHN THOMAS FINANCIAL \$20,000 AND DIRECTED THAT THE FIRM CEASE AND DESIST FROM REGULATORY VIOLATIONS. IN ADDITION, THE CONSENT ORDER REQUIRED THAT THE FIRM REIMBURSE AFFECTED CONNECTICUT CUSTOMERS THE



DIFFERENCE BETWEEN THE PER TRANSACTION "HANDLING FEE" AND THE ACTUAL AMOUNT OF THE FIRM'S TICKET AND CLEARING CHARGE AND THE POSTAGE FEE ASSESSED BY THE CLEARING FIRM.

**Sanction Details:** SEE RESPONSE TO ITEM 13.B.

**Reporting Source:** Firm

**Current Status:** Final

**Allegations:** ON OCTOBER 18, 2011, A CONSENT ORDER WAS ENTERED BASED ON FINDINGS, WHICH THE FIRM NEITHER ADMITTED NOR DENIED THEREIN, THAT THE FIRM FAILED TO ESTABLISH, ENFORCE AND MAINTAIN A SUPERVISORY SYSTEM REASONABLY DESIGNED TO MAKE SURE THAT FIRM AGENTS PROPERLY DISCLOSED THE HANDLING FEE CHARGED TO CONNECTICUT CUSTOMERS.

**Initiated By:** STATE OF CONNECTICUT

**Date Initiated:** 10/18/2011

**Docket/Case Number:** CO-11-7904-S

**Principal Product Type:** No Product

**Other Product Type(s):**

**Principal Sanction(s)/Relief Sought:** Civil and Administrative Penalt(ies) /Fine(s)

**Other Sanction(s)/Relief Sought:**

**Resolution:** Consent

**Resolution Date:** 10/18/2011

**Sanctions Ordered:** Monetary/Fine \$20,000.00  
Cease and Desist/Injunction

**Other Sanctions Ordered:** THE CONSENT ORDER FINED JOHN THOMAS FINANCIAL \$20,000 AND DIRECTED THAT THE FIRM CEASE AND DESIST FROM REGULATORY VIOLATIONS. IN ADDITION, THE CONSENT ORDER REQUIRED THAT THE FIRM REIMBURSE AFFECTED CONNECTICUT CUSTOMERS THE DIFFERENCE BETWEEN THE PER TRANSACTION "HANDLING FEE" AND THE ACTUAL AMOUNT OF THE FIRM'S TICKET AND CLEARING CHARGE AND THE POSTAGE FEE ASSESSED BY THE CLEARING FIRM.

**Sanction Details:** DISPOSITION RESULTED IN A \$20,000.00 FINE. IN ADDITION, THE CONSENT ORDER REQUIRED THAT THE FIRM REIMBURSE AFFECTED CONNETICUT CUSTOMERS.

**Disclosure 4 of 5****Reporting Source:**

Regulator

**Current Status:**

Final

**Allegations:**

SECURITIES EXCHANGE ACT RULE 10B-10 AND 17A-3, FINRA RULE 2010 AND 3130, NASD RULE 1017, 2110, 2430, 3010, 3012, 3013, 3070, 3110: FROM AT LEAST JANUARY 2008 THROUGH THE PRESENT, THE MEMBER FIRM HAS CHARGED ITS CUSTOMERS AS MUCH AS \$75 AS A HANDLING FEE IN ADDITION TO COMMISSION ON EACH TRANSACTION PLACED AT THE FIRM. THE HANDLING FEE CHARGE BY THE FIRM WAS NOT REASONABLE BECAUSE IT WAS EFFECTIVELY THE SAME AS A COMMISSION TO THE FIRM AND THE AMOUNT OF THE FEE WAS NOT REASONABLY RELATED TO ANY DIRECT HANDLING-RELATED SERVICES PERFORMED BY THE FIRM, OR HANDLING-RELATED EXPENSES INCURRED BY THE FIRM, IN PROCESSING THE TRANSACTION. THE FIRM IMPROPERLY AND INACCURATELY CHARACTERIZED THE CHARGE AS A HANDLING FEE ON CUSTOMER TRADE CONFIRMATIONS AND AS A TRADE CONFIRMATION (POSTAGE AND HANDLING) FEE ON FEE SCHEDULES. IN ADDITION, AT VARIOUS JUNCTURES IN 2009 AND 2010, THE FIRM'S NUMBER OF SALES PERSONNEL MATERIALLY EXCEEDED THE AMOUNT IT WAS PERMITTED TO HAVE UNDER THE FIRM'S VARIOUS MEMBERSHIP AGREEMENTS IN PLACE WITH FINRA DURING THIS PERIOD AND THE FIRM FAILED TO OBTAIN REQUISITE APPROVAL FROM FINRA TO EFFECT SUCH MATERIAL CHANGES IN ITS BUSINESS OPERATIONS. FURTHER, AT VARIOUS TIMES FROM 2007 THROUGH 2010, THE FIRM WAS DEFICIENT IN A NUMBER OF OTHER COMPLIANCE AREAS, INCLUDING COMPLAINT REPORTING, SUPERVISORY CONTROLS AND CERTIFICATIONS, BRANCH OFFICE SUPERVISION AND RECORDKEEPING.

**Initiated By:**

FINRA

**Date Initiated:**

09/07/2011

**Docket/Case Number:**2009016304801**Principal Product Type:**

Other

**Other Product Type(s):**

N/A

**Principal Sanction(s)/Relief Sought:**

Other

**Other Sanction(s)/Relief Sought:**

N/A

**Resolution:**

Acceptance, Waiver &amp; Consent(AWC)



**Resolution Date:** 09/07/2011

**Does the order constitute a final order based on violations of any laws or regulations that prohibit fraudulent, manipulative, or deceptive conduct?** No

**Sanctions Ordered:** Censure  
Monetary/Fine \$275,000.00

**Other Sanctions Ordered:** UNDERTAKINGS - REFRAIN FROM UTILIZING THE SAFE HARBORS FOR BUSINESS EXPANSIONS FOR INCREASING ITS NUMBER OF ASSOCIATED PERSONS INVOLVED IN SALES FOR A PERIOD OF 30 MONTHS AND IMPLEMENT CORRECTIVE ACTION TO REMEDY THE HANDLING FEE-RELATED VIOLATIONS. SUCH CORRECTIVE ACTION SHALL INCLUDE, BUT NOT BE LIMITED TO: (1) IDENTIFYING AS COMMISSIONS OR MARK-UPS (MARK-DOWNS), ALL TRANSACTION-BASED REMUNERATION, AND ANY OTHER FEES WHICH DO NOT CONSTITUTE REASONABLE FEES; (2) FOR ANY CHARGES OR FEES FOR SERVICES, FULLY AND ACCURATELY DISCLOSING ON CONFIRMATIONS, THE SPECIFIC SERVICE PERFORMED OR TO BE PERFORMED OR THE SPECIFIC USE, AND THE AMOUNT OF THE FEE PAID OR TO BE PAID IN CONNECTION WITH EACH SERVICE OR USE, AND RETAINING DETAILED RECORDS TO SUBSTANTIATE SUCH SERVICES AND USES AND THE FEE AMOUNTS; AND (3) REVISING THE FIRM'S WRITTEN SUPERVISORY PROCEDURES AND PROVIDE TRAINING TO ADDRESS THIS UNDERTAKING RELATED TO TRANSACTION-BASED REMUNERATION, REASONABLE FEES, THEIR APPROPRIATE DISCLOSURE TO CUSTOMERS, AND RETENTION OF RELATED RECORDS.

**Sanction Details:** WITHOUT ADMITTING OR DENYING THE FINDINGS THE FIRM CONSENTED TO THE DESCRIBED SANCTIONS AND TO THE ENTRY OF FINDINGS, THEREFORE THE FIRM IS CENSURED, FINED \$275,000, AND REQUIRED TO CERTIFY THAT THE FIRM HAS IMPLEMENTED CORRECTIVE ACTION TO REMEDY THE HANDLING FEE-RELATED VIOLATIONS.

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**Reporting Source:** Firm

**Current Status:** Final

**Allegations:** CHARGING OF UNREASONABLE HANDLING FEES AND IMPROPER AND INACCURATE DISCLOSURE OF SUCH FEES; FAILURE TO OBTAIN FINRA APPROVAL TO EFFECT MATERIAL CHANGE IN BUSINESS OPERATIONS; FAILURE TO REPORT CUSTOMER COMPLAINTS; FAILURE TO IMPLEMENT SUPERVISORY CONTROLS, FAILURE TO MAINTAIN AN ADEQUATE SUPERVISORY SYSTEM AND WRITTEN SUPERVISORY PROCEDURES; AND



FAILURE TO MAINTAIN BOOKS AND RECORDS.

**Initiated By:** FINANCIAL INDUSTRY REGULATORY AUTHORITY ("FINRA")

**Date Initiated:** 09/06/2011

**Docket/Case Number:** 2009016304801

**Principal Product Type:** No Product

**Other Product Type(s):**

**Principal Sanction(s)/Relief Sought:** Civil and Administrative Penalt(ies) /Fine(s)

**Other Sanction(s)/Relief Sought:** CENSURE

**Resolution:** Acceptance, Waiver & Consent(AWC)

**Resolution Date:** 09/06/2011

**Sanctions Ordered:** Censure  
Monetary/Fine \$275,000.00

**Other Sanctions Ordered:**

**Sanction Details:** CENSURE; FINE OF \$275,000.00 PAID BY METHOD OF INSTALLMENT PAYMENT PLAN ; UNDERTAKING NOT TO USE SAFE HARBOR FOR 30 MONTHS; AND UNDERTAKING TO CERTIFY CORRECTION OF HANDLING FEE RELATED VIOLATIONS FOUND BY FINRA.

**Disclosure 5 of 5**

**Reporting Source:** Regulator

**Current Status:** Final

**Allegations:** ON JANUARY 4, 2008, CHIEF COMPLIANCE OFFICER MICHAEL MOLINARO, ACTING ON BEHALF OF JOHN THOMAS FINANCIAL (JTF), NEGLIGENTLY AND WITHOUT SCIENTER OR ACTUAL INTENT, FILED AN AMENDED FORM U4 WITH CRD TO REGISTER GREGG LORENZO AS AN AGENT IN THE STATE OF IOWA. DUE TO LORENZO'S PAST REGULATORY HISTORY, IOWA SECURITIES, AS A CONDITION OF REGISTRATION, REQUIRED JTF, THROUGH MOLINARO, NEGLIGENTLY AND WITHOUT SCIENTER OR ACTUAL INTENT, AND LORENZO TO AGREE TO AN ORDER ESTABLISHING HEIGHTENED SUPERVISION OF LORENZO FOR A PERIOD OF TWO YEARS. THE ORDER WAS SIGNED FEBRUARY 7, 2008. MOLINARO AND LORENZO FAILED TO REPORT THE IOWA ORDER ON LORENZO'S FORM U4. ON AUGUST 18, 2008, APPLICATION WAS MADE TO IDAHO TO REGISTER LORENZO AS AN AGENT OF JTF. LORENZO'S FORM U4 OMITTED ANY



## DISCLOSURE REGARDING THE IOWA ORDER.

**Initiated By:** IDAHO DEPARTMENT OF FINANCE  
**Date Initiated:** 08/28/2008  
**Docket/Case Number:** 2008-7-11  
**Principal Product Type:** No Product  
**Other Product Type(s):**  
**Principal Sanction(s)/Relief Sought:** Civil and Administrative Penalt(ies) /Fine(s)  
**Other Sanction(s)/Relief Sought:**  
**Resolution:** Stipulation and Consent  
**Resolution Date:** 07/16/2009  
**Does the order constitute a final order based on violations of any laws or regulations that prohibit fraudulent, manipulative, or deceptive conduct?** No  
**Sanctions Ordered:** Monetary/Fine \$5,000.00  
**Other Sanctions Ordered:**  
**Sanction Details:** JTF AGREED TO PAY A CIVIL PENALTY IN THE AMOUNT OF \$5,000. JTF, MOLINARO AND LORENZO WERE CAUTIONED TO REFRAIN FROM VIOLATING THE IDAHO UNIFORM SECURITIES ACT (2004) AND COMPLY WITH THE ACT AND RULES PROMULGATED THEREUNDER IN THE FUTURE.

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**Reporting Source:** Firm  
**Current Status:** Final  
**Allegations:** ON AUGUST 18, 2008, THE FIRM'S FORMER CHIEF COMPLIANCE DIRECTOR, MICHAEL MOLINARO, NEGLIGENTLY AND WITHOUT SCIENTER OR ACTUAL INTENT, FILED AN APPLICATION WITH THE STATE OF IDAHO TO REGISTER THE FIRM'S FORMER REGISTERED REPRESENTATIVE, GREGG LORENZO, WITHOUT DISCLOSING ON THE FORM U-4 THAT MR. LORENZO WAS SUBJECT TO AN IOWA ORDER PLACING HIM (LORENZO) ON HEIGHTENED SUPERVISION.

**Initiated By:** IDAHO DEPARTMENT OF FINANCE



**Date Initiated:** 08/28/2008  
**Docket/Case Number:** 2008-7-11  
**Principal Product Type:** No Product  
**Other Product Type(s):**  
**Principal Sanction(s)/Relief Sought:** Civil and Administrative Penalt(ies) /Fine(s)  
**Other Sanction(s)/Relief Sought:**  
**Resolution:** Stipulation and Consent  
**Resolution Date:** 07/16/2009  
**Sanctions Ordered:** Monetary/Fine \$5,000.00  
**Other Sanctions Ordered:**  
**Sanction Details:** JTF AGREED TO PAY A CIVIL PENALTY IN THE AMOUNT OF \$5000.00. JTF, MOLINARO AND LORENZO WERE CAUTIONED TO REFRAIN FROM VIOLATING THE IDAHO UNIFORM SECURITIES ACT (2004) AND COMPLY WITH THE ACT AND RULES PROMULGATED THERE UNDER IN THE FUTURE.





### Regulatory - Pending

This type of disclosure event may include a pending formal proceeding initiated by a regulatory authority (e.g., a state securities agency, self-regulatory organization, federal regulatory agency such as the Securities and Exchange Commission, foreign financial regulatory body) for alleged violations of investment-related rules or regulations.

#### Disclosure 1 of 2

**Reporting Source:** Regulator

**Current Status:** Pending

**Allegations:** WILLFULLY VIOLATED SECURITIES EXCHANGE ACT SECTION 10(B),RULE 10B-5 THEREUNDER, VIOLATED SECURITIES EXCHANGE ACT RULES 17A-3, 17A-4, FINRA RULES 2010, 2020, 4511(A), 5240, 5320, NASD RULES 2320, 3010, CAUSED VIOLATIONS OF SEC RULES 17A-3(A)(6), 17A-4(B)(1) - JOHN THOMAS FINANCIAL, INC., THROUGH THE FIRM'S CHIEF EXECUTIVE OFFICER (CEO)AND ITS BRANCH OFFICE MANAGER (BOM), SOLD OVER 800,000 SHARES OF A SECURITY AT PRICES THAT WOULD HAVE SATISFIED OUTSTANDING CUSTOMER ORDERS TO SELL THIS STOCK ON THE SAME SIDE OF THE MARKET. THE FIRM RECEIVED CUSTOMER ORDERS ONE AFTERNOON BUT DID NOT EXECUTE MOST OF THEM IN THE SIZE AND AT THE SAME PRICE OR BETTER AT WHICH IT EXECUTED THE PROPRIETARY SHARES. THE FIRM THROUGH ITS CEO,BOM AND A TRADER, FAILED TO USE REASONABLE DILIGENCE TO EXECUTE CUSTOMER ORDERS THAT DAY SO THAT CUSTOMER ORDERS WERE NOT FILLED AT A PRICE AS FAVORABLE AS POSSIBLE UNDER PREVAILING MARKET CONDITIONS. SOME ORDERS WERE EXECUTED THE FOLLOWING DAY AND THEREAFTER AT PRICES THAT WERE INFERIOR TO THE PRICES AVAILABLE THE DAY BEFORE AND SOME CUSTOMERS DID NOT SELL AT ALL. THE FIRM TOOK INSUFFICIENT STEPS TO FOLLOW CUSTOMER INSTRUCTIONS. THE FIRM AND THE CEO, THROUGH THE BOM AND THE CHIEF COMPLIANCE OFFICER (CCO), STATED TO REGISTERED REPRESENTATIVES THAT CUSTOMER ORDERS TO SELL THE STOCK COULD NOT BE ENTERED DUE TO A PROBLEM WITH THE CLEARING FIRM AND THE REGISTERED REPRESENTATIVES CONVEYED THIS MISREPRESENTATION TO CUSTOMERS. THE FIRM TOOK INADEQUATE STEPS, IF ANY TO TIMELY ENTER ORDERS FOR EXECUTION. THE FIRM, THROUGH ITS CEO AND BOM, FAILED TO MAKE AND KEEP CURRENT RECORDS OF THESE ORDERS AS REQUIRED BY THE SEC. THE FIRM, THROUGH ITS CEO AND BOM, FAILED TO PRESERVE RECORDS FOR AT LEAST THE UNEXECUTED CUSTOMER ORDERS IT RECEIVED AS REQUIRED BY THE SEC. THESE TICKETS WERE REQUIRED TO BE PRESERVED FOR AT LEAST THREE YEARS. THE FIRM HAD WRITTEN SUPERVISORY PROCEDURES (WSPS) THAT PURPORTED TO ADDRESS TRADING AHEAD OF CUSTOMER EQUITY ORDERS THAT STRICTLY PROHIBITED FRONT RUNNING BUT THE IMPLEMENTATION OF THESE PROCEDURES WAS NOT FOLLOWED. ALTHOUGH THE FIRM DESIGNATED



A TRADER WITH RESPONSIBILITY FOR ENSURING COMPLIANCE WITH THESE PROCEDURES, IT FAILED TO NOTIFY HIM OF SUCH OR PROVIDE HIM WITH THE INFORMATION NECESSARY TO BE ABLE TO DO SO. THE FIRM, THROUGH ITS CEO AND BOM, CREATED CIRCUMSTANCES WHERE AS THE CUSTOMERS' ORDERS WERE NOT BEING ENTERED: THE TRADER WHO HAD BEEN AT THE FIRM FOR APPROXIMATELY TWO WEEKS WAS RESPONSIBLE FOR ENTERING THE ORDERS AND THE BOM COULD NOT BE BOTHERED TO ASSIST HIM BECAUSE SHE WAS BUSILY SELLING THE FIRM'S PROPRIETARILY-HELD SHARES. THE FIRM ALSO FAILED TO ESTABLISH AND MAINTAIN A SUPERVISORY SYSTEM REASONABLY DESIGNED TO ENSURE COMPLIANCE WITH FINRA RULE 4511 AND SEC RULES 17A-3 AND 17A-4. THE FIRM FAILED TO ESTABLISH AND MAINTAIN A SUPERVISORY SYSTEM WITH RESPECT TO ITS TRADING FUNCTION AND RECORDKEEPING PRACTICES THAT WAS REASONABLY DESIGNED TO ACHIEVE COMPLIANCE WITH SECURITIES LAWS, REGULATIONS AND RULES. [CONTINUED IN COMMENT.]

**Initiated By:** FINRA  
**Date Initiated:** 04/15/2013  
**Docket/Case Number:** 2012033467301  
**Principal Product Type:** Equity Listed (Common & Preferred Stock)  
**Other Product Type(s):**  
**Principal Sanction(s)/Relief Sought:**  
**Other Sanction(s)/Relief Sought:**  
**Summary:**

ALLEGATIONS CONTINUED: THE FIRM VIOLATED ANTIFRAUD PROVISIONS BY SELLING PROPRIETARILY HELD STOCK WHILE KNOWINGLY OR RECKLESSLY PREVENTING THE ENTRY AND EXECUTION OF MARKETABLE CUSTOMER SELL ORDERS IN THE STOCK AND MAKING MATERIAL MISREPRESENTATIONS TO CUSTOMERS, REGISTERED REPRESENTATIVES AND OTHER FIRM PERSONNEL BY STATING THROUGH ITS OFFICERS, THAT SUCH ORDERS COULD NOT BE ENTERED BECAUSE A PROBLEM EXISTED WITH THE CLEARING FIRM; THE CUSTOMERS' SHARES WERE UNREGISTERED UNDER THE 1933 ACT AND NOT SUBJECT TO AN EXEMPTION FROM REGISTRATION; AND THERE WAS INSUFFICIENT VOLUME IN THE STOCK. THE FIRM, ACTING THROUGH ITS CEO AND BOM, ATTEMPTED TO CONCEAL THE MISCONDUCT BY FAILING TO MAINTAIN ORDER TICKETS FOR SOME ORDERS AND CREATING FALSIFIED TICKETS FOR SOME OF THE ORDERS. AS A RESULT OF THE FIRM'S SALE OF ITS PROPRIETARILY-HELD SHARES, IT REAPED PROCEEDS OF APPROXIMATELY \$1,080,135. THE FIRM, THROUGH ITS CEO AND BOM,



FAILED TO OBSERVE HIGH STANDARDS OF COMMERCIAL HONOR AND JUST AND EQUITABLE PRINCIPLES OF TRADE BY SELLING PROPRIETARILY HELD STOCK WHILE PREVENTING THE SALE OF SUCH STOCK BY CUSTOMERS AND MAKING MATERIAL MISREPRESENTATIONS AND OMISSIONS TO CUSTOMERS AND REPRESENTATIVES CONCERNING THE REASONS THAT ORDERS TO SELL THE STOCK WERE NOT FULLY EXECUTED OR EXECUTED AT ALL. THE FIRM CONDUCTED BUSINESS IN A THREATENING, INTIMIDATING AND COERCIVE MANNER BY THREATENING TO END REPRESENTATIVES' FINANCIAL CAREERS BY FILING FORMS U5 AND AMENDMENTS FALSELY STATING THAT THEY ENGAGED IN SERIOUS WRONGDOING.

**Reporting Source:** Firm

**Current Status:** Pending

**Allegations:** WILLFULLY VIOLATED SECURITIES EXCHANGE ACT SECTION 10(B),RULE 10B-5 THEREUNDER, VIOLATED SECURITIES EXCHANGE ACT RULES 17A-3, 17A-4, FINRA RULES 2010, 2020, 4511(A), 5240, 5320, NASD RULES 2320, 3010, CAUSED VIOLATIONS OF SEC RULES 17A-3(A)(6), 17A-4(B)(1) - JOHN THOMAS FINANCIAL, INC., THROUGH THE FIRM'S CHIEF EXECUTIVE OFFICER (CEO)AND ITS BRANCH OFFICE MANAGER (BOM), SOLD OVER 800,000 SHARES OF A SECURITY AT PRICES THAT WOULD HAVE SATISFIED OUTSTANDING CUSTOMER ORDERS TO SELL THIS STOCK ON THE SAME SIDE OF THE MARKET. THE FIRM RECEIVED CUSTOMER ORDERS ONE AFTERNOON BUT DID NOT EXECUTE MOST OF THEM IN THE SIZE AND AT THE SAME PRICE OR BETTER AT WHICH IT EXECUTED THE PROPRIETARY SHARES. THE FIRM THROUGH ITS CEO,BOM AND A TRADER, FAILED TO USE REASONABLE DILIGENCE TO EXECUTE CUSTOMER ORDERS THAT DAY SO THAT CUSTOMER ORDERS WERE NOT FILLED AT A PRICE AS FAVORABLE AS POSSIBLE UNDER PREVAILING MARKET CONDITIONS. SOME ORDERS WERE EXECUTED THE FOLLOWING DAY AND THEREAFTER AT PRICES THAT WERE INFERIOR TO THE PRICES AVAILABLE THE DAY BEFORE AND SOME CUSTOMERS DID NOT SELL AT ALL. THE FIRM TOOK INSUFFICIENT STEPS TO FOLLOW CUSTOMER INSTRUCTIONS. THE FIRM AND THE CEO, THROUGH THE BOM AND THE CHIEF COMPLIANCE OFFICER (CCO), STATED TO REGISTERED REPRESENTATIVES THAT CUSTOMER ORDERS TO SELL THE STOCK COULD NOT BE ENTERED DUE TO A PROBLEM WITH THE CLEARING FIRM AND THE REGISTERED REPRESENTATIVES CONVEYED THIS MISREPRESENTATION TO CUSTOMERS. THE FIRM TOOK INADEQUATE STEPS, IF ANY TO TIMELY ENTER ORDERS FOR EXECUTION. THE FIRM, THROUGH ITS CEO AND BOM, FAILED TO MAKE AND KEEP CURRENT RECORDS OF THESE ORDERS AS REQUIRED BY THE SEC. THE FIRM, THROUGH ITS CEO AND BOM, FAILED TO PRESERVE RECORDS FOR AT



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**Initiated By:** FINRA  
**Date Initiated:** 04/15/2013  
**Docket/Case Number:** 2012033467301  
**Principal Product Type:** Equity Listed (Common & Preferred Stock)  
**Other Product Type(s):**  
**Principal Sanction(s)/Relief Sought:**  
**Other Sanction(s)/Relief Sought:**  
**Summary:**

ALLEGATIONS CONTINUED: THE FIRM VIOLATED ANTIFRAUD PROVISIONS BY SELLING PROPRIETARILY HELD STOCK WHILE KNOWINGLY OR RECKLESSLY PREVENTING THE ENTRY AND EXECUTION OF MARKETABLE CUSTOMER SELL ORDERS IN THE STOCK AND MAKING MATERIAL MISREPRESENTATIONS TO CUSTOMERS, REGISTERED REPRESENTATIVES AND OTHER FIRM PERSONNEL BY STATING THROUGH ITS OFFICERS, THAT SUCH ORDERS COULD NOT BE ENTERED BECAUSE A PROBLEM EXISTED WITH THE CLEARING FIRM; THE CUSTOMERS' SHARES WERE UNREGISTERED UNDER THE 1933 ACT AND NOT SUBJECT TO AN



EXEMPTION FROM REGISTRATION; AND THERE WAS INSUFFICIENT VOLUME IN THE STOCK. THE FIRM, ACTING THROUGH ITS CEO AND BOM, ATTEMPTED TO CONCEAL THE MISCONDUCT BY FAILING TO MAINTAIN ORDER TICKETS FOR SOME ORDERS AND CREATING FALSIFIED TICKETS FOR SOME OF THE ORDERS. AS A RESULT OF THE FIRM'S SALE OF ITS PROPRIETARILY-HELD SHARES, IT REAPED PROCEEDS OF APPROXIMATELY \$1,080,135. THE FIRM, THROUGH ITS CEO AND BOM, FAILED TO OBSERVE HIGH STANDARDS OF COMMERCIAL HONOR AND JUST AND EQUITABLE PRINCIPLES OF TRADE BY SELLING PROPRIETARILY HELD STOCK WHILE PREVENTING THE SALE OF SUCH STOCK BY CUSTOMERS AND MAKING MATERIAL MISREPRESENTATIONS AND OMISSIONS TO CUSTOMERS AND REPRESENTATIVES CONCERNING THE REASONS THAT ORDERS TO SELL THE STOCK WERE NOT FULLY EXECUTED OR EXECUTED AT ALL. THE FIRM CONDUCTED BUSINESS IN A THREATENING, INTIMIDATING AND COERCIVE MANNER BY THREATENING TO END REPRESENTATIVES' FINANCIAL CAREERS BY FILING FORMS U5 AND AMENDMENTS FALSELY STATING THAT THEY ENGAGED IN SERIOUS WRONGDOING.

**Disclosure 2 of 2**

**Reporting Source:**

Regulator

**Current Status:**

Pending

**Allegations:**

SEC ADMIN RELEASE 33-9396, 34-69208, IA RELEASE 3571, INVESTMENT COMPANY ACT OF 1940 RELEASE 30435, MARCH 22, 2013: THE SECURITIES AND EXCHANGE COMMISSION ("COMMISSION") DEEMED IT APPROPRIATE AND IN THE PUBLIC INTEREST THAT PUBLIC ADMINISTRATIVE AND CEASE-AND-DESIST PROCEEDINGS BE INSTITUTED PURSUANT TO SECTION 8A OF THE SECURITIES ACT OF 1933 ("SECURITIES ACT"), SECTIONS 15(B)(4), 15(B)(6) AND 21C OF THE SECURITIES EXCHANGE ACT OF 1934 ("EXCHANGE ACT"), SECTIONS 203(E), 203(F) AND 203(K) OF THE INVESTMENT ADVISERS ACT OF 1940 ("ADVISERS ACT"), AND SECTION 9(B) OF THE INVESTMENT COMPANY ACT OF 1940 ("INVESTMENT COMPANY ACT") AGAINST JOHN THOMAS FINANCIAL, INC. ("JTF"), ITS CHIEF EXECUTIVE OFFICER ("CEO"), ANOTHER INDIVIDUAL, AND HIS INVESTMENT ADVISER FIRM ("ADVISER").

THE DIVISION OF ENFORCEMENT ALLEGES THAT: THE CASE CONCERNS FRAUDULENT CONDUCT BY THE MANAGER OF TWO HEDGE FUNDS (COLLECTIVELY THE "FUNDS"), AND THE FUNDS' UNREGISTERED ADVISER. AS ALLEGED, THE MANAGER ALSO ELEVATED THE INTERESTS OF THE CEO AND JTF OVER THOSE OF THE FUNDS BY STEERING MILLIONS OF DOLLARS IN BLOATED FEES TO JTF.



THE MANAGER AND THE ADVISER LAUNCHED FUND I IN 2007 AND FUND II IN 2009. THE FUNDS INVEST IN THREE ASSET CLASSES: BRIDGE LOANS TO START-UP COMPANIES; EQUITY INVESTMENTS PRINCIPALLY IN MICROCAP COMPANIES; AND LIFE SETTLEMENT POLICIES. THE FUNDS' ASSETS UNDER MANAGEMENT PEAKED AT APPROXIMATELY \$30 MILLION AT THE END OF 2011.

AMONG OTHER THINGS, THE MANAGER AND THE ADVISER: A. RECORDED ARBITRARY VALUATIONS WITHOUT ANY REASONABLE BASIS FOR CERTAIN OF THE FUNDS' LARGEST HOLDINGS, THUS CAUSING THE FUNDS' PERFORMANCE FIGURES TO BE FALSE AND MISLEADING AND THEIR OWN COMPENSATION TO BE FALSELY INFLATED; B. MARKETED THE FUNDS ON THE BASIS OF FALSE REPRESENTATIONS ABOUT, AMONG OTHER THINGS, THE IDENTITIES OF THEIR AUDITOR AND PRIME BROKER; AND C. BREACHED THEIR FIDUCIARY DUTY OF FULL AND FAIR DISCLOSURE TO THE FUNDS BY FAILING TO DISCLOSE THEIR REPEATED FAVORING OF THE PECUNIARY INTERESTS OF THE CEO OF JTF, AND JTF, WHICH SERVED AS THE FUNDS' PLACEMENT AGENT.

WHILE THEY SHARED THE SAME BRAND NAME, THE ADVISER PURPORTED TO BE WHOLLY INDEPENDENT OF JTF (THE PLACEMENT AGENT).

NOTWITHSTANDING REPRESENTATIONS THAT HE WAS "RESPONSIBLE FOR ALL OF THE INVESTMENT DECISIONS" OF THE FUNDS, THE MANAGER CAPITULATED TO THE CEO'S AGGRESSIVE DEMANDS REGARDING CERTAIN INVESTMENT DECISIONS. THE ADVISER'S PURPORTED INDEPENDENCE FROM JTF WAS A SHAM DESIGNED TO ENRICH THE CEO AT THE EXPENSE OF THE FUNDS, AND TO INSULATE HIM FROM FUTURE ACCUSATIONS OF WRONGDOING.

IN ADDITION TO CAPITULATING TO THE CEO'S DEMANDS REGARDING CERTAIN FUND ACTIVITIES, THE MANAGER AND THE ADVISER ABANDONED THEIR FIDUCIARY DUTY TO THE FUNDS BY NEGOTIATING ARRANGEMENTS WHEREBY BORROWING COMPANIES WOULD DIVERT LARGE FEES TO JTF AND ITS CEO USING PROCEEDS RECEIVED FROM THE FUNDS. FOR EXAMPLE, IN CONNECTION WITH CERTAIN BRIDGE LOANS MADE BY FUND I, THE CEO (ACTING THROUGH JTF) RECEIVED HUNDREDS OF THOUSANDS OF DOLLARS IN "FEES" FOR PROVIDING LITTLE OR NO SERVICES.

THE MANAGER AND THE ADVISER PLACED THE INTERESTS OF THE CEO AND JTF ABOVE THE INTERESTS OF THE FUNDS, THEREBY VIOLATING THE FIDUCIARY DUTY THAT THEY OWED TO THE FUNDS. FOR EXAMPLE, AFTER BEING BERATED BY THE CEO FOR NOT DELIVERING ENOUGH FEES, THE MANAGER PROMISED HIM IN AN EMAIL IN LATE 2009, "WE WILL



NEVER RETREAT WE WILL NEVER SURRENDER AND WE WILL ALWAYS TRY TO GET YOU AS MUCH [FEES] AS POSSIBLE, EVERYTIME [SIC] WITHOUT EXCEPTION!"

AS A RESULT OF THE CONDUCT, JTF AND ITS CEO WILLFULLY AIDED, ABETTED AND CAUSED THE ADVISER'S AND THE MANAGER'S VIOLATIONS OF SECTIONS 206(1), 206(2) AND 206(4) OF THE ADVISERS ACT AND RULE 206(4)-8 THEREUNDER.

**Initiated By:** UNITED STATES SECURITIES AND EXCHANGE COMMISSION

**Date Initiated:** 03/22/2013

**Docket/Case Number:** 3-15255

**Principal Product Type:** Other

**Other Product Type(s):** HEDGE FUNDS

**Principal Sanction(s)/Relief Sought:**

**Other Sanction(s)/Relief Sought:**

**Summary:** IT IS ORDERED THAT THE ADMINISTRATIVE LAW JUDGE SHALL ISSUE AN INITIAL DECISION NO LATER THAN 300 DAYS FROM THE DATE OF SERVICE OF THIS ORDER, PURSUANT TO RULE 360(A)(2) OF THE COMMISSION'S RULES OF PRACTICE.

**Reporting Source:** Firm

**Current Status:** Pending

**Allegations:** SEC ADMIN RELEASE 33-9396, 34-69208, IA RELEASE 3571, INVESTMENT COMPANY ACT OF 1940 RELEASE 30435, MARCH 22, 2013: THE SECURITIES AND EXCHANGE COMMISSION ("COMMISSION") DEEMED IT APPROPRIATE AND IN THE PUBLIC INTEREST THAT PUBLIC ADMINISTRATIVE AND CEASE-AND-DESIST PROCEEDINGS BE INSTITUTED PURSUANT TO SECTION 8A OF THE SECURITIES ACT OF 1933 ("SECURITIES ACT"), SECTIONS 15(B)(4), 15(B)(6) AND 21C OF THE SECURITIES EXCHANGE ACT OF 1934 ("EXCHANGE ACT"), SECTIONS 203(E), 203(F) AND 203(K) OF THE INVESTMENT ADVISERS ACT OF 1940 ("ADVISERS ACT"), AND SECTION 9(B) OF THE INVESTMENT COMPANY ACT OF 1940 ("INVESTMENT COMPANY ACT") AGAINST JOHN THOMAS FINANCIAL, INC. ("JTF"), ITS CHIEF EXECUTIVE OFFICER ("CEO"), ANOTHER INDIVIDUAL, AND HIS INVESTMENT ADVISER FIRM ("ADVISER"). THE DIVISION OF ENFORCEMENT ALLEGES THAT: THE CASE CONCERNS FRAUDULENT CONDUCT BY THE MANAGER OF TWO HEDGE FUNDS (COLLECTIVELY THE



"FUNDS"), AND THE FUNDS' UNREGISTERED ADVISER. AS ALLEGED, THE MANAGER ALSO ELEVATED THE INTERESTS OF THE CEO AND JTF OVER THOSE OF THE FUNDS BY STEERING MILLIONS OF DOLLARS IN BLOATED FEES TO JTF. THE MANAGER AND THE ADVISER LAUNCHED FUND I IN 2007 AND FUND II IN 2009. THE FUNDS INVEST IN THREE ASSET CLASSES: BRIDGE LOANS TO START-UP COMPANIES; EQUITY INVESTMENTS PRINCIPALLY IN MICROCAP COMPANIES; AND LIFE SETTLEMENT POLICIES. THE FUNDS' ASSETS UNDER MANAGEMENT PEAKED AT APPROXIMATELY \$30 MILLION AT THE END OF 2011. AMONG OTHER THINGS, THE MANAGER AND THE ADVISER: A. RECORDED ARBITRARY VALUATIONS WITHOUT ANY REASONABLE BASIS FOR CERTAIN OF THE FUNDS' LARGEST HOLDINGS, THUS CAUSING THE FUNDS' PERFORMANCE FIGURES TO BE FALSE AND MISLEADING AND THEIR OWN COMPENSATION TO BE FALSELY INFLATED; B. MARKETED THE FUNDS ON THE BASIS OF FALSE REPRESENTATIONS ABOUT, AMONG OTHER THINGS, THE IDENTITIES OF THEIR AUDITOR AND PRIME BROKER; AND C. BREACHED THEIR FIDUCIARY DUTY OF FULL AND FAIR DISCLOSURE TO THE FUNDS BY FAILING TO DISCLOSE THEIR REPEATED FAVORING OF THE PECUNIARY INTERESTS OF THE CEO OF JTF, AND JTF, WHICH SERVED AS THE FUNDS' PLACEMENT AGENT. WHILE THEY SHARED THE SAME BRAND NAME, THE ADVISER PURPORTED TO BE WHOLLY INDEPENDENT OF JTF (THE PLACEMENT AGENT). NOTWITHSTANDING REPRESENTATIONS THAT HE WAS "RESPONSIBLE FOR ALL OF THE INVESTMENT DECISIONS" OF THE FUNDS, THE MANAGER CAPITULATED TO THE CEO'S AGGRESSIVE DEMANDS REGARDING CERTAIN INVESTMENT DECISIONS. THE ADVISER'S PURPORTED INDEPENDENCE FROM JTF WAS A SHAM DESIGNED TO ENRICH THE CEO AT THE EXPENSE OF THE FUNDS, AND TO INSULATE HIM FROM FUTURE ACCUSATIONS OF WRONGDOING. IN ADDITION TO CAPITULATING TO THE CEO'S DEMANDS REGARDING CERTAIN FUND ACTIVITIES, THE MANAGER AND THE ADVISER ABANDONED THEIR FIDUCIARY DUTY TO THE FUNDS BY NEGOTIATING ARRANGEMENTS WHEREBY BORROWING COMPANIES WOULD DIVERT LARGE FEES TO JTF AND ITS CEO USING PROCEEDS RECEIVED FROM THE FUNDS. FOR EXAMPLE, IN CONNECTION WITH CERTAIN BRIDGE LOANS MADE BY FUND I, THE CEO (ACTING THROUGH JTF) RECEIVED HUNDREDS OF THOUSANDS OF DOLLARS IN "FEES" FOR PROVIDING LITTLE OR NO SERVICES. THE MANAGER AND THE ADVISER PLACED THE INTERESTS OF THE CEO AND JTF ABOVE THE INTERESTS OF THE FUNDS, THEREBY VIOLATING THE FIDUCIARY DUTY THAT THEY OWED TO THE FUNDS. FOR EXAMPLE, AFTER BEING BERATED BY THE CEO FOR NOT DELIVERING ENOUGH FEES, THE MANAGER PROMISED HIM IN AN EMAIL IN LATE 2009, "WE WILL NEVER RETREAT WE WILL NEVER SURRENDER AND WE WILL ALWAYS TRY TO GET YOU AS MUCH [FEES] AS POSSIBLE, EVERYTIME [SIC] WITHOUT EXCEPTION!" AS A RESULT OF THE CONDUCT, JTF AND ITS CEO WILLFULLY AIDED, ABETTED AND CAUSED





THE ADVISER'S AND THE MANAGER'S VIOLATIONS OF SECTIONS 206(1),  
206(2) AND 206(4) OF THE ADVISERS ACT AND RULE 206(4)-8  
THEREUNDER.

**Initiated By:** UNITED STATES SECURITIES AND EXCHANGE COMMISSION  
**Date Initiated:** 03/28/2013  
**Docket/Case Number:** 3-15255  
**Principal Product Type:** Other  
**Other Product Type(s):** HEDGE FUNDS  
**Principal Sanction(s)/Relief Sought:**  
**Other Sanction(s)/Relief Sought:**



### Arbitration Awards - Award/Disposition

Brokerage firms are not required to report arbitration claims filed against them by customers; however, BrokerCheck provides summary information regarding FINRA arbitration awards involving securities and commodities disputes between public customers and FINRA-registered firms in this section of the report.

The full text of arbitration awards issued by FINRA is available at [www.finra.org/awardsonline](http://www.finra.org/awardsonline).

#### Disclosure 1 of 1

<b>Reporting Source:</b>	Regulator
<b>Type of Event:</b>	ARBITRATION
<b>Allegations:</b>	FRAUDULENT ACTIVITY-CHURNING; FRAUDULENT ACTIVITY-MISREPRESENTATION
<b>Arbitration Forum:</b>	FINRA
<b>Case Initiated:</b>	12/09/2011
<b>Case Number:</b>	<a href="#">11-04358</a>
<b>Disputed Product Type:</b>	OTHER TYPES OF SECURITIES
<b>Sum of All Relief Requested:</b>	\$17,210.00
<b>Disposition:</b>	AWARD AGAINST PARTY
<b>Disposition Date:</b>	07/06/2012
<b>Sum of All Relief Awarded:</b>	\$62.50

There may be a non-monetary award associated with this arbitration.  
Please select the Case Number above to view more detailed information.

## End of Report



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UNITED STATES SECURITIES AND EXCHANGE COMMISSION

In the Matter of: )  
John Thomas Capital Management ) File No. NY-8496

WITNESS: George Jarkesy

PAGES: 1 through 229

PLACE: Securities and Exchange Commission  
3 World Financial Center  
New York, New York 10281

DATE: Wednesday, October 12, 2011

The above-entitled matter came on for hearing,  
pursuant to notice, at 10:35 a.m.

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<p>1 that.</p> <p>2 Q Was there any difficulty in your mind of - you</p> <p>3 were a director of America West, correct?</p> <p>4 A Um-hum.</p> <p>5 Q And you were also the managing partner of the</p> <p>6 funds?</p> <p>7 A Correct.</p> <p>8 Q And you have an ongoing relationship with Mr.</p> <p>9 Belesis's firm?</p> <p>10 A Correct and lots of other firms.</p> <p>11 Q And lots of other firms. Was there any difficulty</p> <p>12 in your mind of keeping your priorities straight if I could</p> <p>13 put it that way, making sure you represent your partners</p> <p>14 first and the other interests after that?</p> <p>15 A That difficulty exists between me and America West,</p> <p>16 because the fund would like to be liquid quicker, faster, you</p> <p>17 know, what have you, but the company continues to march</p> <p>18 along. That difficulty never existed between me and JTF. I</p> <p>19 always kept my eye on the ball.</p> <p>20 Q Well, in this e-mail of the three points you raised</p> <p>21 on two of them seemed to be to the advantage of John Thomas</p> <p>22 Financial and the first point you say that it makes JTF the</p> <p>23 hero, in the third part you're talking about generating</p> <p>24 commissions and three months of IV fees.</p> <p>25 A Well, I don't remember the specific transaction,</p>	<p>1 Q Right.</p> <p>2 A As a board member of America West and a big</p> <p>3 shareholder from the fund, I wanted the money raised, right,</p> <p>4 and how do you say, well, why should he raise money, well, he</p> <p>5 raised the money because of one, two, and three.</p> <p>6 Q Was it common for you to articulate to Mr. Belesis</p> <p>7 how he and his firm could make money in connection with</p> <p>8 companies in which the fund was invested? Did this kind of</p> <p>9 thing happen a lot?</p> <p>10 A Only probably in America West and maybe in Radiant,</p> <p>11 because those were situations where we butted heads on quite</p> <p>12 a bit as to he would say he was going to raise money and then</p> <p>13 they didn't raise money and then the company would be</p> <p>14 strapped and, you know, we're on the board and what have you.</p> <p>15 So from a board perspective I, you know, had these arguments,</p> <p>16 you know, when are you going to raise the money with him</p> <p>17 pretty regularly.</p> <p>18 BY MS. BIEL:</p> <p>19 Q Do you see how this e-mail could be viewed for</p> <p>20 example by your partners as you paying more attention to the</p> <p>21 needs of John Thomas Financial than the needs of the funds?</p> <p>22 A I think that when you read it from the outside you</p> <p>23 could see it that way, but the question is did the money get</p> <p>24 raised and did the company get the capital and the capital</p> <p>25 get employed in the company billed, and so I did - acted in</p>
<p>Page 142</p> <p>1 but my gist of this is the hero meaning they raised the money</p> <p>2 for the company and they got done probably what they</p> <p>3 committed to do anyway. Once again this is me trying to get</p> <p>4 a deal done, right, and the benefit of getting the money</p> <p>5 raised like he committed to raise was the commissions and</p> <p>6 that's what I get from this e-mail.</p> <p>7 BY MR. OSNATO:</p> <p>8 Q Why do you care about the commissions? Why do you</p> <p>9 care about the company doing something that's going to</p> <p>10 generate \$90,000 for John Thomas Financial, why is that?</p> <p>11 A I don't. I don't care at all about it.</p> <p>12 Q Then what does point three mean?</p> <p>13 A Point three is what he cares about. Why does he</p> <p>14 care that America West exist or doesn't exist or raises money</p> <p>15 or mines more coal or not, he doesn't care. What he cares</p> <p>16 about is line three and I care about the company getting the</p> <p>17 money and growing.</p> <p>18 Q So why does he need you to tell him that?</p> <p>19 A Well, you know, sometimes it's nice to accentuate</p> <p>20 the positive.</p> <p>21 Q Why do you care whether JTF is the hero? Why do</p> <p>22 you care whether it looks good?</p> <p>23 A Once again, if you can incentivize people to close</p> <p>24 the deal that they committed to close, you know, you're</p> <p>25 trying to get the deal closed.</p>	<p>Page 144</p> <p>1 a manner on behalf of the fund and its best interest which</p> <p>2 was to do the first thing, get the money from the banker that</p> <p>3 committed it. I do the same thing with other bankers. I do</p> <p>4 the same thing, saying look, you know, you guys are doing a</p> <p>5 10 million dollar financing, you're getting this much in</p> <p>6 fees, you're getting a year tail, I mean these are common</p> <p>7 discussions when you're trying to attract capital to those</p> <p>8 two companies. Those two companies are special because A.</p> <p>9 I'm on the board and B. They're big holdings. So I'm always</p> <p>10 out pitching please raise money for these companies until</p> <p>11 they get to that point, right, as a director, which is what</p> <p>12 this is. It's saying please do what you said you were going</p> <p>13 to do and raise the money. I've done the same thing with</p> <p>14 Brean Murray, I've done the same thing with 10 other firms.</p> <p>15 especially in the case of America West, so yeah. I mean</p> <p>16 these bankers are wondering what can we have in warrants.</p> <p>17 They want to know if we're going to do the deals what are we</p> <p>18 going to get in warrants. How long is the - how long do we</p> <p>19 have to raise the money, it's always a back and forth. In</p> <p>20 the America West case, you know, I have had a lot of</p> <p>21 activities working with that board on that.</p> <p>22 Q Do you use the same kind of language when you're</p> <p>23 trying to get other bankers to do something, do you call</p> <p>24 them, you know, this will make you a hero. Do you use that</p> <p>25 kind of language?</p>