UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 5520/ June 12, 2020

ADMINISTRATIVE PROCEEDING
File No. 3-19826

In the Matter of LOUIS NAVELLIER and NAVELLIER & ASSOCIATES, INC. Respondents	RESPONDENTS' MEMORANDUM AND APPENDIX OF EXHIBITS IN OPPOSITION TO THE SEC'S MOTION FOR SUMMARY JUDGMENT

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INTRODUCTION

This case is not appropriate for summary judgment because there has been no "final" judgment, for purposes of collateral estoppel, of the SEC's Massachusetts District Court civil enforcement action ("the district court action"). The SEC predicates its motion for summary judgment here on the grounds that the summary judgment in its favor in the district court action is a collateral estoppel bar in this action as to the Respondents' liability for supposedly violating §§206(1) and 206(2) of the Investment Advisors Act of 1940 ("IAA") [15 U. S. C. §80(b)-6(1), (2)]. However, collateral estoppel cannot apply here because the district court judgment is subject to a pending appeal in the First Circuit Court of Appeal. The scope of review of the summary judgment in that appeal is trial de novo review. *Mulloy v. Acushnet Company* 460 F.3d 141, 145 (1st Cir. 2006) ["the scope of appellate review of summary judgment . . . is *de novo*"]

Since collateral estoppel does not apply, there is no "final" judgment that Respondents violated §206(1) or §206(2), and consequently, no basis for the district court's award of a permanent injunction prohibiting Respondents from violating §§206(1) and 206(2). Absent an injunction and absent a final judgment of liability for violating §206(1) or §206(2), there is no basis for the SEC to bring this "follow on" proceeding. Section 203(f) of the Investment Advisors Act requires a final decision awarding injunctive relief. That has not been done.

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Collateral estoppel also cannot be applied here because there was no substantial evidence to support the district court's decision that Respondents disseminated a false statement - that the NAI Vireo AlphaSector investment strategies were licensed from another investment advisory firm, F-Squared Advisors ("F2") which, in turn, had based its investment strategies on the Morton investment strategy, which strategy had been 'live traded going back to 2001, and that the F2 index strategy was not back tested'. Collateral estoppel does not apply if the supposedly decided issue - that the statement was false - is not supported by substantial evidence. *SEC v Resnick* 604 F. Supp.2d 773, 779 (D. Md. 2009); *United States v. Di Rico* 78 F.3d 732, 735 (1st Cir. 1996); *Geffon v. Micron Corp.* 249 F.3d 29, 35-36 (1st Cir. 2001)

Collateral estoppel also does not apply if the prior decision was the subject of procedural irregularities. *United States v. Wight* 839 F.2d 193, 197 (4th Cir. 1988)

Here, the district court decision, as to fraud, was not supported by ***any*** evidence, let alone substantial evidence. Therefore, collateral estoppel does not apply, to support the SEC's motion for summary judgment. (Exhibits 2, 3, 4, 5, 6, 7 and 8, Vol. 1)[1]

[1] "Exhibit __, p. __, Vol. __" refers to the exhibits in Respondents' Appendix of Exhibits filed herewith.

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The district court decision was also subject to procedural irregularities, i.e., the district court impermissibly resolved the disputed issue of whether the allegedly false statement was material for purposes of a §206(1) or §206(2) violation. *SEC v. Lemelson* 532 F. Supp.3d 30, 39 (D. Mass. 2021) citing *In re Cabletron Systems, Inc.* 311 F.3d 11, 34 (1st Cir. 2002) The district court also committed procedural irregularities by deciding the disputed issue of fact as to scienter. *SEC v. Lemelson* supra 532 F. Supp.3d 30 at 42, citing *SEC v. Ficken* 546 F.3d 45, 51 (1st Cir. 2009) It is a procedural irregularity for a district court to resolve disputed issues of material fact on a summary judgment motion. *Anderson v. Liberty Lobby, Inc.* (1986) 477 U.S. 242, 249 [at the summary judgment stage, the judge's function is not {herself} to weigh the evidence and determine the truth of the matter, but to determine whether there is a genuine issue for trial]

Therefore, this "follow on" proceeding should be stayed until the First Circuit decides de novo whether Respondents violated §206(1) or §206(2). *Wilson v. City of Chicago* 900 F. Supp. 1015, 1028-1029 (N. D. Ill. 1995); Restatement (Second) Judgments, §13, comment f.

This follow on proceeding should also be dismissed or, at a minimum, stayed because it unconstitutionally violates Respondents' due process rights.

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Cochran v. SEC 20 F.4^{th} 194 (5^{th} Cir. 2021), cert. granted 142 S. Ct. 2707[2] At a minimum, this proceeding should be stayed pending a determination on appeal by the First Circuit, or a determination by the United States Supreme Court in the pending *Cochran v SEC* case 142 S. Ct. 2707 (Case No. 21-1239) wherein the Supreme Court has granted certiorari to decide whether the Commission, by acting as investigator, prosecutor, and judge, all in its own case, violates the respondent's right to due process.

Even if the pending First Circuit appeal in this case does not preclude collateral estoppel (it does), summary judgment would still be inappropriate here, because there is a material dispute as to whether the *Steadman* factors (discussed infra) - . . . support imposition of the draconian penalties the SEC seeks here. They do not. *Blinder, Robinson & Co. v. SEC* 837 F. 2d 1099, 1108 (D. C. Cir. 1988); *Arthur Lipper Corporation v. SEC* 547 F.2d 171, 184 (2^{nd} Cir. 1976)

In this action, the SEC is seeking an associational bar against Louis Navellier ("Mr. Navellier") and revocation of Navellier & Associates, Inc.'s ("NAI") registration. In order to obtain an associational bar or revocation of registration against NAI, the SEC must prove that each respondent has been enjoined from violating §§206(1) and 206(2), and that such extraordinarily harsh

[2] Respondents are in the process of filing a complaint challenging the constitutionality of the follow-on proceeding.

lifetime bar and extraordinarily harsh revocation are in the public interest. Those sanctions (really penalties) are ***not*** in the public interest.

Barring Mr. Navellier from his chosen profession of over 35 years and revoking NAI's registration is not in the public interest. NAI and Mr. Navellier have provided excellent advisory services to their clients and have earned several billion dollars in profits for them. They have unblemished records. This is the only enforcement action ever brought against them. Ironically, Mr. Navellier was opposed to NAI's use of F2's strategy and tried (internally) to stop or limit it. It is highly questionable that the allegedly false statement was even false. Mr. Navellier did not make or disseminate the allegedly false statement to investors. The statement was not material to investors. They didn't care about the origins of the strategy or its 9-year-old, hypothetical performance. (Exhibit 39, Vol. 2) What they cared about was finding a defensive investment strategy that would reduce their risk while providing the potential for a moderate upside. That is exactly what they got. In fact, far from being defrauded by NAI or Mr. Navellier, they made $211 Million in net profits from NAI's investment advice. The investors were not harmed.

A bar from association and revocation of registration have not been finally decided in the district court action. Therefore, it is not even certain that

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Respondents actually violated §206(1) or §206(2), . *Blinder, Robinson & Co. v. SEC* 837 F.2d 1099, 1108 (D. C. Cir. 1988)

Respondents are entitled to a full and fair evidentiary hearing where each Respondent is allowed to appear and testify, call witnesses, and put on documentary and oral evidence – that Mr. Navellier and NAI each did not disseminate a false, allegedly materially statement with the intent to defraud – in opposition to the SEC's requested relief. *Blinder, Robinson & Co. v. SEC* supra 837 F. 2d 1099

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STATEMENT OF FACTS

A more complete Statement of Facts with citations to the district court records, which district court records are incorporated herein by reference, is set forth in Attachment A attached hereto. For convenience and ease of reference, copies of pertinent district court documents or excerpts thereof are contained as exhibits in Respondents' Appendix ("App") filed herewith.

A brief summary of the pertinent facts follows:

The Allegedly False Statement Was Not False

In the district court action, the SEC brought a motion for summary judgment ***alleging*** that Respondents NAI and Mr. Navellier ***each*** violated §§206(1) and 206(2) of the IAA by allegedly disseminating marketing materials to investors and potential investors that contained one allegedly false statement - that NAI's Vireo AlphaSector investment strategies[3] were based on a third party's investment strategy that was live traded since 2001 and was not back tested ("the allegedly

[3] The SEC initially and conclusorily stated, in its district court motion for partial summary judgment 1) that the marketing material for each of NAI's nine, separate Vireo AlphaSector investment strategies contained the ***allegedly*** false statement. (Exhibit 1, Vol. 1) The SEC produced evidence that only two of the nine NAI Vireo strategies, Vireo Allocator and Vireo Premium, contained the allegedly violative statement. (Exhibits 2, 3, 4, 5 and 6, Vol. 1), In its Reply memorandum (Exhibit 15, Vol. 1) and in its settlement (Exhibits 16, 17, 18, 19, 20 and 21, Vol. 1), the SEC conceded that only the marketing for those two NAI Vireo strategies contained the ***allegedly*** false statement.

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violative statement"). (Exhibit 1, Vol. 1) As "support" for its summary judgment motion (alleging that the statement was false), the SEC produced seven exhibits comprised of NAI Vireo marketing materials. (Exhibits 2 - 8, Vol. 1) Those exhibits did not prove that the statement was false, far from it.

First, those exhibits showed that the NAI marketing pieces ***did not state***, as the district court erroneously held, that NAI's "Vireo AlphaSector strategy had been live traded since 2001". (Exhibit 9, p. 14, Vol. 1) NAI never stated that its Vireo strategy had been live traded since 2001. The SEC's exhibits confirmed that what NAI's Vireo marketing materials ***actually*** stated was, that the strategy, upon which F2 based[4] its strategy, had been live traded since 2001.F2 (Exhibit 10, Vol. 1)

Second, and more importantly, the SEC produced ***no evidence*** that the NAI ***'based on live traded, not back tested' statement*** was false. (Exhibits 2, 3, 4, 5, 6, 7 and 8, Vol. 1)[5] ***It is not a false statement. It is a true statement***. (See footnote 5.) The SEC's "evidence" of alleged "falsity" consisted solely of excerpts from NAI's Allocator and Premium marketing materials. (Exhibits 2 - 6, Vol. 1) However,

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[4] The NAI Vireo Allocator and Vireo Premium marketing materials clearly stated that NAI licensed its Allocator and Premium strategies from F2, and that F2 based its investment strategy on the investment strategy of an unidentified wealth manager's (Morton) investment strategy.

[5] NAI did not deny that NAI made the 'live traded, not back tested' statement in its Vireo marketing material. What NAI vigorously disputed, and what the SEC failed to prove, was that that statement was false. It was not false. It was true. (Exhibits 11, 12, 13 and 14, Vol. 1)

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those excerpts merely showed what NAI said, ***not*** that what NAI said was false. None of the SEC's 74 proposed statements of undisputed facts (Docket No. 222), or its 69 summary judgment exhibits (Docket Nos. 222-2 through 222-71) showed that NAI's allegedly violative statement was ***false***. The SEC ***produced no evidence*** that Morton did not live trade its strategy since 2001 or that F2 did not base its Allocator Index strategy or its Premium Index strategy on the Morton strategy. (Exhibits 2 - 8, Vol. 1)

Likewise, the SEC did not produce any evidence that F2's Allocator Index strategy or its Premium Index strategy were back tested. Respondents produced evidence that F2's Index strategies were ***not*** back tested but rather, were derived from Morton's live traded strategy. (Exhibit 11, pp. 1 and 4, Vol. 1) NASDAQ OMX, the internationally recognized leader as a calculator of index performance, which calculated the hypothetical index performance of F2's Allocator Index and of its Premium Index going back to 2001,confirmed that those F2 indexes were based on a wealth manager's live traded strategy going back to 2001. (Exhibit 11, p. 4, Vol. 1) (See also Exhibits 12, 13 and 14, Vol. 1)

Not only did the SEC fail to meet its burden to support its allegations that the statement was false, but NAI produced evidence that its statement was true, i.e., that its Vireo strategies were based on the F2 signals it received from F2 (Exhibits 22 and 23, Vol. 1) and that those F2 Index strategies were based on a

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wealth manager's live traded strategy since 2001 (Exhibits 9, 10, 11 and 14, Vol. 1) and that therefore, F2's index strategies were not back tested. (Exhibit 11, pp. 1 and 4, Vol. 1)

The SEC, when faced with the fact that it produced no evidence that the NAI statement was false, resorted to the disingenuous argument that NAI had "admitted", in its ***unverified*** Answer to the SEC Complaint (Exhibit 24, Vol. 2), that it did not know if its marketing statement was true or false, and that that somehow made the statement false. However, that is not the law (*Lululemon* 14 F. Supp.3d 553, 571 (S. D. N. Y. 2014)) and is not what NAI stated in its unverified Answer. (Exhibit 24, Vol. 2)

Making a true statement, even without support (there was support), does not make the true statement false, and is not a violation of the securities laws. *In re Lululemon* 14 F. Supp.3d 553, 571 (S. D. N. Y. 2014); *Janus Capital Group, Inc. v. First Derivative Traders* (2011) 564 U.S. 136, 146 – 148

Moreover, NAI produced evidence that it ***did*** have support for its statement. (Exhibits 11, 12, 13 and 14, Vol. 1)

The district court's decision, holding that NAI's (and Mr. Navellier's) statement was false, was based solely on the SEC's ***unsupported accusations***, not on evidence of falsity. Likewise, the district court's improper resolution of

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disputed facts was procedurally improper (*Anderson v. Liberty Lobby, Inc.* (1986) 477 U.S. 242, 249) and therefore has no collateral estoppel effect. *SEC v Resnick* 604 F. Supp.2d 773, 779 (D. Md. 2009)

Mr. Navellier Did Not Market The Vireo Strategies

The SEC ***produced no evidence*** that Mr. Navellier disseminated the NAI Vireo marketing materials or made any false statement. That is because there is no such evidence, because he did not do so. (Exhibit 26, Vol. 2) To the contrary, the evidence established that Mr. Navellier was opposed to NAI marketing its Vireo strategies because, as defensive strategies, the Vireo strategies conflicted with the NAI aggressive growth, core strategies that he had created, and which were the basis for NAI's brand as an aggressive growth manager. (Exhibit 27, Vol. 2)

The evidence also established that Mr. Navellier closed Vireo accounts (Exhibit 28, Vol. 2) and was trying to stop NAI marketers from marketing Vireo and instead, focus on selling his core, aggressive NAI strategies (Exhibit 29, Vol. 2), and that Mr. Navellier ordered NAI marketers and compliance officer, Arjen Kuyper, to remove any reference to live traded, and instructed them to not disseminate any non-NAI materials (Exhibit 30, Vol. 2).

The evidence further established that Mr. Navellier was frustrated with NAI's marketers selling the Vireo strategies instead of NAI's core strategies that he had created, so he resorted to fabricating false accusations against Mr. Present and F2, directed internally to NAI's marketers in order to induce them to stop selling the Vireo strategies (Exhibits 27, 28 and 29, Vol. 2) at a time when NAI was increasing its Vireo assets under management by over One Billion dollars, attributable to sales of the Vireo strategies (Exhibit 31, Vol. 2)

Not only was there ***no evidence of fraud***, but it is undisputed that NAI invested its Vireo clients' monies according to the Vireo strategies' investment criteria as promised in its marketing material (Exhibit 10, Vol. 1) and that NAI made over ***$211 Million in profits for its Vireo clients***, after returning to them all of the investment advisory fees they had paid to NAI for the excellent and highly profitable Vireo investment advice it had provided to them. (Exhibit 31, Vol. 2) Thus, NAI and Mr. Navellier obtained no "ill-gotten gains" from the supposedly "false" marketing statement, or from the fees and sale of NAI's goodwill. Those fees and goodwill were ***earned*** for excellent NAI services for years of NAI building Vireo goodwill by providing those clients with $211 Million of profits. (Exhibit 31, Vol. 2)

The SEC's motion for summary judgment seeking these draconian penalties should be denied. NAI's registration should not be revoked, and Mr. Navellier should not be barred from association, because their actions were not fraudulent. They are not a threat to the investing public. It is highly unlikely that they would

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violate the law in the future, after the nightmare of the last ten years. The investing public, including hundreds of their long-time clients, would be deprived of their chosen investment advisers, who have earned over the years, several billion dollars of profits for those clients and their other clients. NAI's employees would lose their long-time jobs, all before it was even finally determined that NAI or Mr. Navellier even violated §206(1) or §206(2).

That irreparable tragedy should not occur in this proceeding. There is no pressing urgency to putting Mr. Navellier and NAI out of business at this time (NAI ceased its Vireo strategy 10 years ago), especially now, when they have hundreds of clients who want to continue to use Respondents' unique investment advisory services. The better and fairer path, for everyone's sake, is to stay this proceeding (it had been stayed for 2 years) and let the First Circuit decide whether NAI and Mr. Navellier even violated the law. If the First Circuit reverses, then erroneous penalties here and irreparable harm to NAI's clients and the investing public will be avoided. If the First Circuit upholds the district court decision, then the SEC can proceed here. Also, this body will have the benefit of knowing what Respondents actually did or did not do, and can decide then what remedies are appropriate in light of that knowledge.

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ARGUMENT

I. THERE ARE DISPUTED ISSUES OF MATERIAL FACT WHICH PRECLUDE A GRANT OF SUMMARY JUDGMENT IN FAVOR OF THE SEC HEREIN

A. THE SEC HAS PRODUCED NO EVIDENCE IN THE DISTRICT COURT OR HEREIN THAT WOULD VALIDATE TERMINATING SANCTIONS AGAINST NAI OR MR. NAVELLIER

The SEC's motion for summary judgment herein is based solely on its assertion that - pursuant to §206(3)(e) and (f) [15 U. S. C. §80b-3(e), (f)], NAI's investment advisor registration can be revoked, and Mr. Navellier can be barred from association, if each of them violated the securities laws, or have been enjoined from violating the securities laws.

The SEC bases its motion for summary judgment herein on the district court summary judgment holding that NAI and Mr. Navellier each violated §206(1) and §206(2) by disseminating the allegedly false statement ('live traded and not back tested') and that, based on that holding, the district court issued an injunction enjoining both NAI and Mr. Navellier from violating §§206(1) and 206(2). The SEC argues that, based on those district court holdings, both NAI and Mr. Navellier are collaterally estopped from denying that each of them disseminated a

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false statement in violation of §206(1) and/or §206(2) and cannot "relitigate" those issues in opposition to the SEC's motion for summary judgment here, citing *James E. Franklin*, Exchange Act Release No. 56649, 2007 WL 2974200 (Oct. 12, 2007) (SEC Memo., p. 7) for its assertion. The SEC is wrong. In *James E. Franklin*, there was no pending appeal subject to trial de novo review of the underlying judgment that the SEC asserted was a collateral estoppel bar.

The SEC's reliance on *Jeffrey L. Gibson* 2008 WL 294717 and *Sherwin Brown & Jamaica, Inc.* 2011 WL 2433279, for the proposition that where the respondent has been enjoined, the sole issue is what remedies are appropriate, is misplaced. In both of those cases, there was no appeal with de novo review pending, as there is here.

Likewise, the SEC's reliance on *John S. Brownson* 2002 WL 1438186, for the proposition that a summary disposition is appropriate in a follow on proceeding where there has been a fraud finding in a prior litigation, is also misplaced, because there was no pending appeal with de novo review from that 'fraud' judgment, in the *Brownson* case, so it was a final order for collateral estoppel purposes.

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However, collateral estoppel does not apply in this proceeding for three (3) reasons:

First, the district court's summary judgment is presently on appeal in the First Circuit Court of Appeal (Exhibit 33, Vol. 2). Because it was a summary judgment, it is subject to trial de novo review by the Court of Appeal. *Mulloy v. Acushnet Company* 460 F.3d 141, 145 (1st Cir. 2006) For purposes of collateral estoppel, a decision which is subject to de novo review is not a "final" judgment and cannot be applied as a collateral estoppel bar in a second litigation. *Nixon v. Richey* 513 F.2d 420, 438, n. 75 (D. D. C. 1975); *Montana v. United States* 440 U.S. 153, 164, n. 11; *SEC v Resnick* 604 F. Supp.2d 773, 779 (D. Md. 2009) Therefore, the district court's summary judgment is not "final", and it cannot be asserted as a collateral estoppel bar in this "follow on" litigation.

Because the district court's injunction is not a "final" judgment, there is no jurisdiction here under §§203(e), (f)

Second, collateral estoppel does not apply if substantial evidence does not support the decision. *United States v. Di Rico* 78 F.3d 732, 735 (1st Cir. 1996); *Geffon v. Micron Corp.* 249 F.3d 29, 35-36 (1st Cir. 2001); *SEC v. Haligianis* 470 F. Supp.2d 373, 382-383 (S.D.N.Y. 2007) [citing *Vermont Teddy Bear Co. v. 1-800 Beargram Co.* 373 F.3d 241, 242 (2nd Cir. 2004) In the present case, as set

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forth in the Statement of Facts above, there was no substantial (or any) evidence that the ***allegedly*** false statement was actually false. In fact, the evidence produced by Respondents showed that it is a ***true*** statement. (Exhibits 11, 12, 13 and 14, Vol. 2)

Since there was no substantial evidence for the finding that NAI or Mr. Navellier violated §206(1) and/or §206(2) (Exhibits 2 - 8, Vol. 1; Exhibits 11-14, Vo. 2), the district court holding is not a collateral estoppel bar.

1. The Statement Was Not Material

Also, in order to prove a §206(1) or §206(2) violation, the SEC must prove that the allegedly false statement was "material", i.e., that there must be a "substantial likelihood that the statement would have been reviewed by the reasonable investor as having altered the total mix of information made available" in an investor's decision to invest with NAI's Vireo Allocator or Vireo Premium strategy. *SEC v. Lemelson* 532 F. Supp.3d 30, 39 (D. Mass. 2021); Basic Inc. v. Levinson 485 U.S. 224; *ZPR Investment Management, Inc. v. SEC* 861 F.3d 1239, 1251-1252 (11th Cir. 2017); *Flannery v. SEC* 810 F.3d 1, 5 and 10 (1st Cir. 2015) NAI presented evidence in the district court from an investment advisor, Ken Zanonni, who the SEC interviewed (Exhibit 34, Vol. 2), and who referred over $100 Million of his clients' monies to NAI for investment according to the NAI Vireo strategies (Exhibit 31, Vol. 2). Mr. Zanonni stated that the 'live traded, not

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back tested' marketing statement and hypothetical performance statements were immaterial to him and his investor clients. What mattered to him and his clients was NAI's Vireo track record, i.e., how well NAI's ***actual*** Vireo investment strategy was *actually* performing.

NAI also presented testimony, and presents it here, from the SEC's Rule 30(b)(6) witness, Robert Baker (the SEC investigator, and SEC attorney litigating the district court case against NAI and Mr. Navellier) that studies show that 10-year-old, hypothetical performance of a strategy is ***not material*** to an investor (Exhibit 35, Vol. 2), especially where there was, as here (Exhibit 36, Vol. 2), a current, actual performance record presented to the prospective investor. (*Id.*). NAI's Vireo Allocator and Vireo Premium marketing materials prominently displayed NAI's actual performance track record for its Vireo Allocator and Vireo Premium clients' accounts, from 2010, when it started investing clients' monies according to its Vireo strategies. (Exhibit 36, Vol. 2) Thus, any supposedly "false" statement about the ***historical origins*** of the F2 Index strategies (Morton's performance track record was not mentioned in NAI's Vireo marketing materials) is ***immaterial*** when taken in context, and in connection with NAI's written disclosures of its ***actual, current*** performance record for its Vireo strategies. NAI's own actual Vireo performance record was disclosed in the same marketing brochures that contained the allegedly violative statement, thereby rendering the

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allegedly "false" statement not material and not a §206(1) or §206(2) violation. *ZPR Investment Management, Inc. v. SEC* 861 F.3d 1239, 1251-1252 (11th Cir. 2017); *Flannery v. SEC* 810 F.3d 1, 5 and 10 (1st Cir. 2015)

The notion that an investor would care or make their decision to hire NAI to manage their assets based on whether NAI's Vireo Strategy was based on some unidentified, other investment advisor's 9-year-old, live traded strategy (where there was ***no*** representation of how that unidentified investment advisor's live traded strategy had performed) (good or bad) is without merit. A reasonable jury could easily find NAI's 'live traded, not back tested' statement immaterial.

Thus, even if NAI's statement was not true (it was true), it was immaterial. No reasonable investor would care. What reasonable investors care about, when they are considering hiring that adviser, is how the investment adviser's strategy has actually performed recently. (Exhibits 34 and 37, Vol. 2)

Since the SEC's motion in the district court was a motion for summary judgment which required the SEC to produce undisputed evidence as to each element of its §206(1) and §206(2) claims, including undisputed evidence that the allegedly false statement was material, and since there was substantial disputing evidence presented by NAI that the statement was not material to investors, it was

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substantive and procedural error for the district court to grant summary judgment as to the §206(1) and §206(2) issue. Therefore, collateral estoppel does not apply.

Likewise, as discussed infra, the issue of scienter was hotly disputed by Respondents in the district court. It was procedural error for the district court to decide factual disputes regarding scienter. *Lemelson* supra 552 F. Supp.3d at 42; *SEC v. Ficken* supra 546 F.3d 45 at 57

B. THIS PROCEEDING IS UNCONSTITUTIONAL

1. This Administrative Proceeding Is Unconstitutional

This proceeding, wherein the SEC is investigator, prosecutor, and judge of its own case, is unconstitutional. *Cochran v. SEC* 20 F.4th 194 (2021)

The United States Supreme Court has granted certiorari in *Cochran*. *SEC v. Cochran* 142 S. Ct. 2707 (2022) Therefore, this proceeding should be stayed, at least until the Supreme Court decides Cochran. Where, the Supreme Court is deciding an issue central to a pending case, the lower court should stay its action, pending a decision by the Supreme Court, so that the lower court can follow that decision and apply the correct law. *Marshel v. AFW Fabric Corp.* 552 F.2d 471, 472 (2nd Cir. 1977); *Bechtel Corp. v. Local 215 Laborer's International Union of North America, AFL-CIO* 544 F.2d 1207, 1215 (3rd Cir. 1976)

C. THIS PROCEEDING SHOULD BE STAYED PENDING A DECISION ON APPEAL BY THE FIRST CIRCUIT COURT OF APPEALS

Where, as here, a district court decision has been appealed, and that decision is asserted as a collateral estoppel bar in a second proceeding, the second proceeding should be stayed until there is a decision on the merits in the appeal of the first case (Restatement (Second) Judgments §13, comment c) if, as here, the first case is subject to de novo review in the pending appeal. *SEC v Resnick* supra 604 F. Supp.2d 773, 778 (D. Md. 2009)**;** *Nixon v. Richey* 513 F.2d 420, 438, n. 75 (D. D. C. 1975) A stay of the second action is preferable, in order to avoid an endless round of appeals and duplication of effort, and possible inconsistent judgments.

For example, if in this proceeding it is determined to grant summary judgment by applying collateral estoppel of the district court decision but the First Circuit reverses the district court's decision that the statement was false, then the decision in this proceeding would be invalid and would have to be appealed and reversed because it would have been erroneously based on the district court's erroneous initial decision. It is better to stay this proceeding until the First Circuit decides the pending appeal. Restatement (Second) Judgments §13, comment c.

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II. SUMMARY JUDGMENT IS IMPROPER HERE BECAUSE THE BURDEN OF PROOF AND THE ISSUES HERE REGARDING THE SEC'S MOTION TO DEREGISTER NAI AND FOR A LIFETIME BAR FROM ASSOCIATION AGAINST LOUIS NAVELLLIER ARE DIFFERENT FROM THE ISSUES IN THE DISTRICT COURT ACTION

Even if, *arguendo*, there is a jurisdictional basis for this "follow on" proceeding, and if this proceeding is not stayed, summary judgment cannot be granted because there was no determination in the district court as to whether NAI's registration as an investment advisor should be revoked, nor whether Mr. Navellier should be barred from association, nor whether it is the public interest to penalize either Respondent, or to what extent, if any. A full and fair evidentiary hearing has to be held here to decide those issues, especially where the SEC is seeking to put Mr. Navellier and NAI out of business. Each case must be decided on its own particular facts (*Arthur Lipper Corporation v. SEC* 547 F.2d. 171, 184-185 (2nd Cir. 1975)) keeping in mind that [the purpose of a sanction is to protect investors, not to punish investment advisers] *West v. SEC* 641 Fed. Appx. 27, 30 (2nd Cir. 2016); *Blinder, Robinson & Co. v. SEC* 837 F. 2d 1099, 1108 (D. C. Cir. 1988); *Steadman v. SEC* 603 F.2d 1126, 1138 (5th Cir. 1979) [minimum protections of due process require a hearing]

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A. THE SEC PRESENTS NO EVIDENCE TO SUPPORT AN ASSOCIATION BAR FOR LIFE AGAINST MR. NAVELLIER OR A REVOCATION OF REGISTRATION AGAINST NAI

The SEC argues that the *Steadman* factors apply so as to grant the draconian penalties the SEC seeks. The SEC is wrong. An evidentiary hearing ***is required*** where Mr. Navellier, NAI employees, and attorneys can testify as to their knowledge, state of mind, and intent so a fully informed and fair determination as to each of the Steadman factors can be made. In deciding if and what penalties to impose, the determination must be based on the evidence presented here and the individual circumstances of each case. *Lipper* supra at 184-185; *Blinder, Robinson & Co. v. SEC* 837 F. 2d 1099, 1108 (D. C. Cir. 1988) Those factors, consideration of the *Steadman* factors, and the individual circumstances of this case, including the limited sanctions previously agreed upon in the SEC's settlement with Respondents, militate against any of the sanctions against NAI or against Mr. Navellier that the SEC seeks herein.

1. Mr. Navellier Does Not "Qualify" for An Association Bar and NAI Does Not "Qualify" for Revocation of Registration

As set forth above, the district court summary judgment and injunction, which enjoined NAI and Mr. Navellier from violating §206(1) and §206(2) going forward, has been appealed and is subject to de novo review, so it is not a final

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order applicable as a collateral estoppel bar. *Id.* There was no evidence to support the district court's 'fraud' determination and the "materiality" and the scienter elements necessary for a finding of a §206(1) or §206(2) violation were disputed, rendering the summary judgment factually and procedurally invalid. A full and fair evidentiary hearing and the evidence presented therein and here (Exhibits 1 - 42 and Declaration of Louis Navellier) show that there was no fraud, that the statement was immaterial, and that neither Respondent intended to defraud investors.

2. Barring Mr. Navellier and Revoking NAI's Registration Is Not In the Public Interest

a. No Scienter

NAI and Mr. Navellier have a 35-year, unblemished record of providing excellent and profitable investment advice to their clients. (See Declaration of Louis Navellier, ¶2 filed herewith.) They have made more than a billion dollars of profits for their clients over the years. (Id., ¶3) Unlike most fraud actions brought by the SEC, NAI's clients were not defrauded out of any money. To the contrary, NAI made them over $211 Million in profits in this case.

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The SEC had never brought any enforcement action against NAI or Mr. Navellier prior to this action[6]. (Id., ¶6) Nor has any client ever sued Mr. Navellier or NAI alleging violations of the securities laws. (Id. ¶6)

The SEC argues that NAI and Mr. Navellier[7] made the "false" statement and continued to do so, even after they decided to sell off the Vireo business. (SB, p. 8) Again, there was no fraud. The allegedly "false" statement was a ***true*** statement. Therefore, neither Respondent had a duty to notify NAI's clients that the statement was true.

b. Not Material

Nor was the statement material. Neither NAI nor Mr. Navellier "knew" it was false because it was not false. It was true. Mr. Navellier testified repeatedly

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[6] The SEC did issue initial deficiency letters after routine inspections of NAI in 1999, 2003 and 2007 asserting that NAI's performance disclosures did not fully comply with all suggested requirements set forth in its Clover Capital no-action letter. Significantly, the SEC did not pursue enforcement of those accusations. However, NAI denied those accusations and the SEC took no enforcement action as to any of them. Critically, the accusations were never litigated by enforcement, let alone proven. Also, those accusations were/are barred by the 5-year statute of limitations in effect at the time. *Gabelli v. SEC* 568 U.S 442 (2013); *Kokesh v. SEC* 137 S. Ct. 1635 (2017) Those SEC non-judgment, ancient "prior bad act" accusations are not judgments or decisions. They are unproven accusations which are irrelevant and highly prejudicial. They should not be considered and must be excluded. Federal Evidence Code, Rule 403. The SEC did not assert them as part of its Complaint in the district court.

[7] Again, Mr. Navellier made no representations, about Vireo, to Vireo investors or potential investors. (Exhibit 26, Vol. 1) The SEC continues to repeat that falsehood but presents and presented no evidence that Mr. Navellier did so.

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that he had no proof the statement was false. (Exhibit 27, Vol. 2) Mr. Navellier's motivational harangues against F2 were made internally to NAI's marketers in order to coerce them and threaten them to focus their efforts on marketing NAI's core, aggressive strategies which he had created (Exhibit 29, Vol. 2) instead of the F2 created Vireo defensive strategies which conflicted with NAI's brand as an aggressive growth investment advisor. (Exhibit 27, Vol. 1)

Whether the Vireo strategies were based on an F2 Index which, in turn, was based on some other, undisclosed wealth manager's 9-year-old strategy, was not material and did not, as the SEC baselessly contends, put potential investors at "greater risk" than they would experience using other investment strategies. In fact, investing in the Vireo defensive strategies, which were highly diversified ETFs which went to cash when the pertinent market sector was declining, was a strong defensive hedge against the risk of loss. The Vireo strategies were invested defensively, exactly as promised and they performed defensively, outperforming their benchmarks (and losing less than their benchmarks in down markets). (Exhibit 33, Vol. 2) The F2 Indexes went to cash prior to the 2008 stock market crash and lost less than their benchmarks. (Id.)[8] It is also important to again note

[8] Of course, there is always a risk of loss by investing in the stock markets, and that was clearly disclosed in NAI's marketing materials. (Exhibit 10, Vol. 1) However, the fact is that NAI's true but immaterial statement, together with all the other disclosures and information in NAI's Vireo marketing materials, did not increase the risk to investors. It was after the 2008 market crash. Investors were looking to get back into the market because interest rate yields were near zero, so

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that NAI Vireo investors actually received back all of their principal investments and the investment advisory fees they had paid to NAI **AND** received ***$211 Million in net profits***. (Exhibit 31, Vol. 2)

Since the SEC cannot show harm to the investing public, it is obsessed over the fact that NAI sold its Vireo goodwill for $14 Million. The SEC tries to fabricate some impropriety out of the sale, but there was no impropriety[9]. As discussed above, NAI and Mr. Navellier did not decide to sell the Vireo goodwill because they knew it was a "fraud" (it was not, and they did not believe it was) or because they feared SEC liability (they did not). NAI sold Vireo because Vireo conflicted with NAI's brand and was overwhelming NAI's brand as an aggressive growth advisor. Mr. Navellier had begun exploring the possibility of a sale of Vireo years before there was even a hint of an SEC investigation of F2. (Exhibit 39, Vol. 2) NAI and Mr. Navellier sold Vireo because the Vireo defensive strategy conflicted with NAI core, aggressive strategy. (Exhibit 27, Vol. 1) Mr. Navellier

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investors were looking for investments with moderate risk and at least potentially moderate returns, which is what was provided. At a minimum, this 'risk' issue is a disputed issue of fact that cannot be resolved by summary judgment. It must be resolved by way of an evidentiary hearing, or by a jury after remand from the First Circuit.

[9] The SEC conceded, in its agreement to settle, that there was no violation and that no disgorgement was appropriate as to NAI's sale of its Vireo goodwill to F2. (Exhibits 17-21, Vol. 1) The NAI Vireo goodwill was earned and retained by NAI over years of excellent and profitable investment advice to its Vireo clients. The goodwill belonged to NAI, not the clients. F2, the buyer of the goodwill, was not defrauded by the supposedly "false" statement that NAI made to investors. There was no §206(1) or §206(2) violation.

made up his ‘sale because of threat of SEC enforcement’ statement to NAI’s marketers to try to placate them about the loss of Vireo business, which was the primary source of their commissions, and in order to retain them to market NAI’s core strategies, after the Vireo sale. (Exhibit 40, Vol. 2; Navellier Declaration, ¶10)

3. Respondents’ Actions Were Not Repetitive and Egregious

Where, as here, there has been no proof that the statement NAI disseminated was false, there is no fraud and no §206(1) or §206(2) violation. *ZPR Investment Management, Inc. v. SEC* 861 F.3d 1239, 1251-1252 (11th Cir. 2017) The SEC’s ***allegations*** of fraud are not proof of fraud. The SEC had to present undisputed evidence that the statement was false, to obtain summary judgment and the injunction. *In re Smith & Wesson Holding Corp. Securities Litigation* 836 F. Supp.2d 1, 8 [“Defendants argue more persuasively, that the statements are not actionable because they are true.”]; *Earnest Lawrence Group v. Marketing, Inc.* 2005 WL 2811781 at *5 (S. D. Tex. 2006); *In re Lululemon* 14 F. Supp.3d 553 supra. It did not do so. The district court could not issue an injunction based on a violation of §206(1) or §206(2) that never occurred.

The same is true as to Mr. Navellier. He never disseminated any false statement. (Exhibit 26, Vol. 2)

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Therefore, there was no "repetitive" violation by either NAI or Mr. Navellier because there was no fraud or negligence for either of them to repeat. It was not egregious to disseminate a true statement, even multiple times. Not only was it not egregious, but NAI did exactly what its marketing material promised its investors and potential investors it would do, in terms of how it would apply its Vireo strategies in investing their money. There was no assertion by the SEC that NAI duped its clients about how it would invest their money. Nor was there any claim that NAI did not invest money exactly as it said it would. Applying the Vireo strategies, those NAI Vireo clients received $211 Million in profits. There was nothing egregious about making $211 Million in profits for its clients by applying exactly the strategy they signed up for.

Not surprisingly, no Vireo client ever complained, let alone sued, NAI or Mr. Navellier for defrauding them or falsely inducing them to hire NAI to provide them with Vireo investment advice. In this day and age of plaintiffs' class action attorneys bringing securities class action cases on the slightest justification, no individual or class action client actions were filed against NAI or Mr. Navellier .

The Settlement

Indeed, the SEC itself does not really believe that NAI's or Mr. Navellier's actions were egregious. The SEC agreed to, and did, settle with NAI for a total of $714,160 and no deregistration or other sanctions against it. The SEC settled with

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Mr. Navellier for no payments and no sanctions, i.e., no bar from association, no suspension, no sanctions whatsoever for the exact same alleged acts for which it now seeks to bar him from association for life[10]. The SEC had no qualms (nor should it have) about NAI and Mr. Navellier continuing to be investment advisors, and clearly knew that it was not in the public interest to bar them from the securities industry.

4. The SEC's Motion For These Terminating Sanctions Constitutes Selective Enforcement

NAI's allegedly violative statement was no different than the exact same statement made and disseminated by other investment advisory firms (like Wells Fargo Advisors, Beaumont, LPL Financial, United Capital Advisors, Congress, Fulcrum). Mr. Navellier's actions were no different than the exact same actions taken by other "control" persons (like Patti Loepker, David Hallman, and Mr. Haviland) who were making the same allegedly violative statement in marketing

[10] The SEC now claims that it did not settle with NAI and Mr. Navellier, but that is not true. The SEC did settle with NAI and Mr. Navellier for a total of &714,160 (consisting of $360,935 in "disgorgement", $53,225 in interest, and a $300,000 penalty) with ***no*** admission of liability and ***no charges*** of any violations by Mr. Navellier. (Exhibits 16-21, Vol. 1) Moreover, even if *arguendo* there was no settlement, it is still undisputed that the SEC was offering to settle, knowing of all the supposedly fraudulent actions by NAI and Mr. Navellier, for only a censure of NAI, and ***no sanctions against Mr. Navellier***, and to allow NAI and Mr. Navellier to continue working as investment advisors (Exhibit 21, Vol. 1) – not the deregistration and lifetime ban it now claims is necessary to "protect the public interest".

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materials they were disseminating about the origins and hypothetical performance of the F2 Index strategies. (Docket No. 224, pp. 10 of 40 – 21 of 40; Docket No. 235, p. 5 of 34, fn. 3; Docket No. 235, pp. 7 of 34 - 13 of 34, all incorporated herein by reference.) In fact, Wells Fargo Advisors disseminated NAI's same allegedly violative Vireo marketing materials to its clients. (Exhibit 41, Vol. 2) The SEC did not bring any enforcement actions against those similarly situated investment advisory firms and individuals[11] [12]. They all continue in business as investment advisors even though they made plenty of money promoting the F2 AlphaSector strategies. Lipper supra 547 F.2d 171 at 184. It is not in the public interest to discriminatorily severely punish NAI and Mr. Navellier, while others who did the same thing, go unpunished. That is not in the public interest. That is punishment.

[11] The real reason the SEC brought the district court action and is seeking these sanctions is out of malice and revenge because NAI and Mr. Navellier would not agree to adding new and materially different terms to modify their existing settlement agreement.

[12] The SEC denied that it selectively enforced against NAI or Mr. Navellier and denied that it did so out of malice but refused Respondents' discovery requests to produce its files and to testify as to its reasons for breaching the settlement agreement with Respondents, and for enforcing against them but not enforcing against others similarly situated to NAI and/or Mr. Navellier, or for enforcing more harshly against Respondents than against others similarly situated, against whom it only sought relatively small monetary penalties. (Docket No. 222-4, pp. 1 of 112 – 112 of 112; 222-5, pp. 1 of 113 – 113 of 113)

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5. Respondents Did Not Act With Scienter

The SEC argues that NAI and Mr. Navellier acted with scienter, i.e., with an intent to defraud Vireo investors. However, the SEC produced no evidence of fraud, so there could be no scienter. Moreover, the evidence shows (and will show at an evidentiary hearing) that Mr. Navellier did not intend to defraud investors. He believed (Exhibit 27, Vol. 2) NASDAQ OMX's independent written representation (Exhibit 11, Vol. 1) In fact, the evidence showed that Mr. Navellier never attempted to induce investors to hire NAI for its Vireo strategies and, in fact, was attempting to discourage it. (Exhibits 26, 27, 28, 29 and 30, Vol. 2)

A rational jury would find it highly implausible that if Mr. Navellier and NAI were really trying to fraudulently induce investors to hire NAI to manage Vireo and were raising hundreds of millions of dollars doing so, Mr. Navellier and NAI would take the above-described repeated actions to stop NAI's marketers from marketing Vireo. *Nguyen v. Endologix, Inc.* 2020 WL 3069776 at *8-9 (9th Cir. June 10, 2020)

Also, Mr. Navellier did not market to Vireo investors and did not provide investment advice to them, so his being the overall Chief Investment Officer at NAI does not mean that he was responsible for the Vireo marketing or that he was

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acting with scienter as to Vireo strategies. *SEC v. Slocum, Gordon & Co.* 334 F.Supp.2d 144, 185 - 186 (D. R.I.2004)

6. Respondents Have Given Assurances That They Intend to Obey the Securities Laws and Will Continue to Do So

As set forth above, neither Mr. Navellier or NAI violated §206(1) or §206(2). They did not disseminate a materially false statement. Tragically, the district court got it wrong when it held, without evidence, that they each did so. That decision is being reviewed de novo on appeal. The fact that Respondents are vigorously defending themselves against the SEC's baseless *accusations*, where the SEC is aggressively seeking to put them out of business and end, for life, Mr. Navellier's 35 year chosen profession, while seeking over $30 Million in disgorgement, interest, and penalties for violations that NAI and LN did not commit, does not mean that they have "failed to acknowledge their violations". They cannot be punished for refusing to "admit" to something they didn't do. It would be a gross violation of Respondents' constitutional rights to due process and access to the courts, to punish them or impose severe sanctions for justifiably defending themselves and refusing to admit to violations they did not commit, and which they are appealing. *Steadman v. SEC* 603 F.2d 1126, 1141 (5th Cir. 1979) [process includes the right not to testify against oneself]

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Likewise, a person faced with the “death penalty” (as the bar from association penalty is rightly called) for something he/she/it did not do, is not a failing to give assurance that he/she/it will not violate the law in the future. Id.

The best evidence that NAI and Mr. Navellier will not violate the securities laws in the future, is that they have been investment advisors for 35 years, they have provided investment advisory services to thousands of clients without ever defrauding any of them. They have never been sued by any of their investment clients for breach of their fiduciary duties or for violation of the securities laws. They have made more than a billion dollars of profits for their clients by providing them with their investment advice. NAI stopped sublicensing investment services from F2 ten years ago and, unlike any other F2 licensee, voluntarily stopped using F2’s investment advice before the SEC even hinted at bringing enforcement action against F2. Mr. Navellier and NAI have already suffered greatly from the SEC’s meritless “enforcement.” NAI has lost nearly Two Billion Dollars in assets under management as a result of the SEC’s enforcement. It is highly unlikely that that they will violate the securities laws in the future.

Moreover, NAI and Mr. Navellier ***did*** give assurances of continued and future compliance with the securities laws. Even after the SEC breached the settlement agreement, NAI twice offered to hire an outside compliance officer to monitor NAI’s investment advisory activities to assure the SEC of NAI’s

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commitment to compliance with the securities laws. (Exhibit 42, Vol. 2) but the SEC rejected NAI's offer.

Again, the SEC does not really believe that NAI or Mr. Navellier would likely violate the law in the future, and made that clear by settling with no admission of liability, no injunction against future securities law violations, and no charges of any violations against Mr. Navellier, and agreeing to allow them to continue their investment advisory business.

7. Opportunity To Violate In The Future

The fact that Respondents continue to operate their investment advisory business, when it is clear that they did not violate §206(1) or §206(2), as the district court erroneously held, does not mean that they will suddenly (for the first time) violate the law in the future. The fact that they vigorously deny violating the law in connection with Vireo does not mean that they are not aware of the law or that they intend to violate the law going forward. They should not be forced to cease providing excellent investment advice that is profitable to their current clients and prospective investor clients looking for competent investment advisors. NAI's 25 employees and independent contractors should not lose their jobs because of the SEC's meritless prosecution of Respondents and an erroneous district court decision that will likely be reversed on appeal. Each case must be judged on its own circumstances.

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The SEC's reliance on *Karen Bruton and Hope Advisors, LLC* 2019 WL 4693573, and *Conrad P. Seghers* 2007 WL2790633, for the proposition that fraud should subject a respondent to the severest of sanctions (SB, p. 12) is misplaced. In those cases, unlike here, there was a ***final*** decision (no pending de novo appeal of the fraud decision) on the merits, finding fraud. That is not our case. The SEC follow on proceeding here is premature and without merit. This proceeding should be stayed until after the First Circuit Court of Appeal rules. Restatement (Second) Judgments, §13, comment f.

It would be extremely unfair and would cause irreparable harm to NAI and to Mr. Navellier if summary judgment were granted herein, imposing these terminating penalties, based on a "fraud" decision that is subsequently reversed. After NAI (and its employees) and Mr. Navellier are forced out business, it would be too late to repair the destruction. It would be better to stay this proceeding, as had been done for two and a half years (Exhibit 13, Vol. 1) so the First Circuit can straighten out this tragically flawed case.

The SEC's reliance on *Jeffrey L. Gibson* supra, *John Francis D'Aquisto* 1998 WL 34300389, *James L. Franklin* supra, *Demitrios Julius Shiva* 1997 WL 112328, for the proposition that collateral estoppel applies in all follow on cases, is incorrect. In all of those cases, there had already been a final decision by way of a consent decree, settlement, or no pending appeal.

CONCLUSION

This proceeding should be stayed, pending the Supreme Court's decision in *Cochran,* and pending the First Circuit's decision on appeal.

However, even if *arguendo*, the district court decision were a collateral estoppel bar to the "fraud" issues, the SEC's motion for summary judgment would still have to be denied, based on Respondents' disputing evidence already presented, and evidence to be presented at a mandated, full, and fair evidentiary hearing regarding whether any sanctions should be imposed, and if sanctions are to be imposed, what sanctions to impose. *Steadman v. SEC* 450 U.S. 91, 93-94 (1981); *Blinder, Robinson & Co. v. SEC* 837 F. 2d 1099, 1108 (D. C. Cir. 1988) If the Commission is allowed to proceed, those issues can only be decided by way of a full and fair evidentiary hearing, with presentation of oral and documentary evidence, and cross-examination of witnesses.

Respectfully submitted,

DATED: March 16, 2023 LAW OFFICES OF SAMUEL KORNHAUSER

By:/s/ *Samuel Kornhauser*
Samuel Kornhauser

Attorney for Respondents

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CERTIFICATE OF WORD COUNT

California Rules of Court, Rule 8.204(c)(1)

The text of this brief consists of 9,410 words as counted by the Microsoft Word Version 2016 Word Processing Program used to generate the brief.

Dated: March 16, 2023 /s/ Samuel Rolnick

Samuel Rolnick

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ATTACHMENT A

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UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 5520/ June 12, 2020

ADMINISTRATIVE PROCEEDING
File No. 3-19826

In the Matter of **LOUIS NAVELLIER and** **NAVELLIER & ASSOCIATES, INC.** **Respondents.**	**RESPONDENTS' ADDITIONAL STATEMENT OF FACTS**

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STATEMENT OF FACTS

1. NAI is an investment advisory firm that provides investment advice to clients, most of whom are referred to NAI by other investment advisory firms or investment professionals. (Docket No. 224-1, p. 113 of 309; Docket No. 224-1, pp. 29 of 309 - 111 of 309)

2. NAI has been providing investment advisory services to individuals, entities, mutual funds, and retirement plans since 1987. (Docket No. 224-1, p. 113 of 309) Its investment advisory services are based on proprietary investment strategies developed by LN applying modern portfolio theory principles designed to outperform the relevant market ("aggressive growth" strategies). (Docket No. 224-1, pp. 114 of 309 - 116 of 309)

3. From 1987, NAI developed and applied a number of proprietary aggressive growth strategies to manage its client accounts (NAI core strategies). Clients would enter into investment advisory agreements with NAI whereby the client would select a particular NAI core investment strategy, transfer his/her/its money to a custodian account (usually at the client's brokerage firm) and then, would send periodic instructions to the client's broker to buy or sell specified securities, (Docket No. 224-1, pp. 114 of 309 - 116 of 309) in accordance with the NAI strategy for which the client had contracted.

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4. In August of 2009, about a year after the stock market crash, NAI's then director of marketing, Paula Boyd, was approached by F2 about a "defensive" strategy for investing (Docket No. 224-1, pp. 173 of 309 and 174 of 309) whereby F2 would statistically analyze the stock market, split it into companies in nine basic sectors of the economy (such as financial stocks, health care stocks, tech stocks etc.) (Docket No. 224-1, pp. 124 of 309 and 131 of 309), recommend investment in an exchange traded fund ("ETF") that held stocks in that particular sector, create a model "sector rotation" investment strategy for investing in those ETFs (Docket No. 224-1, pp. 164 of 309 and 165 of 309), which proprietary strategy F2 licensed to various investment advisory firms and individuals, **e.g.,** NAI (Docket No. 224-1, pp. 147 of 309 and 148 of 309), and Beaumont (Docket No. 224-1, pp. 160 of 309 and 161 of 309)

5. An "ETF" is a fund made up of securities in a particular sector of the economy. Unlike a mutual fund, ETF shares trade during the day on an exchange like a single stock.

6. The investment advisory firms entered into model management agreements with F2 whereby the investment advisory firm would license the AlphaSector Allocator or AlphaSector Premium strategy from F2 and F2 would send the firm periodic investment signals. (Docket No. 224-1, p. 186 of 309) Using the AlphaSector strategy, F2 then sends signals to investment advisory firms, like NAI,

indicating which sector ETFs to purchase, which to sell, which to hold and which to cash out and hold as cash (treasuries). (Docket No. 224-1, pp. 124 of 309 - 145 of 309) F2 sent its AlphaSector Allocator strategy signals on a monthly basis. (Docket No. 224-1, pp. 164 of 309, 165 of 309 and 167 of 309)

7. F2 sent AlphaSector Premium strategy signals to its licensees on a weekly basis. (Docket No. 224-1, p. 186 of 309)

8. F2 represented to Paula Boyd of NAI and to Peter Knapp, NAI's general counsel and chief compliance officer of NAI, that the AlphaSector ETF sector rotation strategy was based on an investment strategy ***that*** had originally been developed by an East Coast wealth management firm that used its strategy to manage the assets of a group of its high-net-worth clients. (Docket No. 224-1, p. 145 of 309; (Docket No. 224-1, p. 186 of 309)

9. F2 would not disclose the name of the wealth management firm because its confidentiality agreement prevented disclosure. (Docket No. 224-1, pp 186 of 309) The wealth management firm did not want to get into the investment advisory business (as opposed to remaining as a wealth manager) and therefore, was willing to and had agreed to license its ETF sector rotation strategy to F2 on a confidential basis by providing F2 with periodic investment signals, which signals F2 could then sub-license to various investment advisory firms which those firms could use as a

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defensive strategy for clients that were looking for defensive investment strategies. (Docket No. 224-1, p. 186 of 309)

10. Defensive investment strategies are strategies that will probably not beat the market by much but are designed to not risk losing as much. (Docket No. 224-1, p. 127 of 309)

11. The F2 AlphaSector Allocator and AlphaSector Premium strategies proposed to (and did) achieve this defensive investment performance by investing only in ETFs in the nine (9) sectors of the economy. The ETF for each given sector of the economy was itself spread (invested) in a number of stocks in its particular sector of the economy (such as financial companies or tech companies, etc.) (Docket No. 224-1, p. 131 of 309)

12. In addition to signaling investments in only ETFs (as opposed to individual stocks), the AlphaSector strategies were disciplined so that if the analytical analysis showed that one or more of the nine market sectors was declining, that sector or sectors would be sold and go to cash. If four or more sectors indicated sell, then the entire strategy (all nine sectors) would be sold and go to cash or cash equivalents ("BIL" treasury ETFs) and would remain in cash until the analytics indicated an upturn in four or more sectors, at which time the strategy would generate buy signals for some or all of the sectors that had gone to cash. (Docket No. 224-1, p. 119 of 309; Docket No. 224-1, p. 131 of 309)

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13. In this “go to cash” component, the AlphaSector strategies were designed to minimize or avoid significant stock market downturns and avoid or reduce losses. (*Id.*)

14. F2’s affiliated company, Active Index Solutions, LLC (“AIS”), established indexes to track the hypothetical , historical performance records for its F2 AlphaSector Allocator index and AlphaSector Premium index strategies. (Docket No. 224-1, pp. 145 of 309)

14a. Performance records for the F2 AlphaSector Allocator and for the AlphaSector Premium strategies were calculated by NASDAQ OMX tracking each of those index’s performance since April 2001. (Docket No. 224-1, pp. 148 of 309 - 149 of 309, ¶3; Docket No. 224-1, p. 145 of 309; Docket No. 224-1, pp. 199 of 309 - 202 of 309; Docket No. 224-1, pp. 191 of 309)

NASDAQ OMX is considered the pre-eminent index performance calculating firm in the United States if not the world. (Docket No. 224-1, pp. 304 of 309 - 306 of 309 and Docket No. 224-1, pp. 308 of 309 - 309 of 309) It is considered the reliable “gold standard” for index performance calculations. (Docket No. 224-1, pp. 304 of 309 - 306 of 309)

15. An Index is an imaginary (hypothetical) collection of selected securities that follows the hypothetical performance of those securities over time to calculate how that collection of securities would have performed if said collection of securities had

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actually been bought and sold according to the strategy. An index's performance track record is purely hypothetical because no real securities are bought, sold, or held. Index performance is a calculation of how that hypothetical collection of securities would have performed (increased or decreased over time) if someone had actually invested those securities over that period of time. (Docket No. 224-1, pp. 200 of 309 - 202 of 309; (Docket No. 224-3, p. 250 of 269)

16. The Dow Jones is an index. It imagines investments in 500 specific stocks and measures how those 500 stocks collectively would have performed each day if someone had actually invested in all of those 500 stocks that day.

20. Paula Boyd was intrigued by the AlphaSector strategies and recommended them (Docket No. 224-1, p. 174 of 309) to NAI's chief compliance officer and in-house, general counsel, Peter Knapp.

21. In October of 2009, Mr. Knapp travelled to Boston to do due diligence for NAI on the F2 AlphaSector Allocator strategy. (Docket No. 224-1, p. 174 of 309) He met with Howard Present, the founder of F2. He met with F2's principal investment advisor analyst, and independent members of F2's Index Committee, including, Arthur Laffer and Ron Santangelo, a well-known and highly respected chief compliance officer for Merrill Lynch. (Docket No. 224-1, p. 187 of 309)

22. Mr. Knapp discussed and received written information regarding the F2 index strategy, the history of the strategies, its index and historical index performance

record, correspondence from Robert Hughes of NASDAQ OMX confirming the historical index performance of the strategy, correspondence with David Martin, Chief Compliance Officer at Virtus, a large mutual fund company with over five (5) billion dollars invested in the F2 Index AlphaSector Allocator strategy, which was being sub-advised by F2. (Docket No. 224-1, pp 187 of 309)

23. Mr. Knapp asked for the unnamed Wealth Manager's trade confirmations or statements to substantiate the Index performance but was told that the information was highly confidential, that the wealth management firm that developed the strategy and licensed it to F2 had not provided and would not provide the statements for fear that the strategy would be appropriated (which fear F2 also had if it disclosed it to NAI). (Docket No. 224-1, pp 186 of 309)

24. Shortly thereafter, Howard Present did send a spread sheet of the hypothetical trades for the F2 AlphaSector Allocator index going back to April 2001. (Docket No. 224-2, pp. 3 of 290 - 290 of 290)

25. NAI then had its own analysts test the spreadsheet. They corroborated that the spreadsheet for the F2 index performance calculation going back to 2001 was correct. (Docket No. 224-1, pp 189 of 309)

26. In October of 2009, Peter Knapp prepared an Executive Summary package consisting of a summary of his due diligence, the Robert Hughes NASDAQ OMX letter, Virtus general counsel correspondence and the F2 index performance

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spreadsheet. (Docket No. 224-2, pp. 3 of 290; Docket No. 224-1, pp 186 of 309 - 202 of 309)

27. Mr. Knapp and NAI's President, Arjen Kuyper, and Paula Boyd all met with LN and recommended to him that NAI enter into a model management agreement with F2 to license (obtain) the periodic F2 AlphaSector Allocator (and later AlphaSector Premium) signals from F2 in order to create a Vireo AlphaSector investment strategy. (Docket No. 224-3, p. 3 of 269)

28. LN was reluctant to have NAI create a defensive ETF strategy because he was concerned that it would confuse and dilute NAI's brand as a well-known aggressive growth firm built on LN's aggressive growth investment strategies which were designed to significantly outperform the market. (Docket No. 224-1, p. 175 of 309; Docket No. 224-3, pp. 5 of 269 - 6 of 269; Docket No. 224-3, pp. 9 of 269 - 10 of 269, lines 15 - 19)

29a. The Vireo AlphaSector strategies, reviewed and approved by Wells Fargo Advisors ("WFA") and other investment advisory firms, marketed Vireo to their investor clients. (Docket No. 224-1, pp. 176 of 309 and 177 of 309)

30. However, based on the due diligence done, NAI's marketers' strong desire for defensive products and market appetite for a defensive product to "compliment" NAI's aggressive growth strategies, LN agreed to NAI licensing the F2 Index strategies from F2, and providing and managing assets based on those signals, on

condition that those NAI AlphaSector strategies be done under a "Vireo" brand without the Navellier name in the title of the Vireo strategies, so that investors did not confuse the Vireo defensive strategies with the core Navellier aggressive growth strategies. (Docket No. 224-3, pp. 5 of 269 - 6 of 269, lines 11 and 12) Likewise, Mr. Navellier insisted he would not be the investment adviser or portfolio manager for any of the Vireo strategies. (Docket No. 224-1, p. 181 of 309; Docket No. 236-7, pp. 157 of 465 - 158 of 465 at p. 19:23-25 and p. 20:1-10) He was the chief investment adviser only for the core aggressive growth NAI strategy that he had created. (Docket No. 236-7, pp. 372 of 465 - 373 of 465; Docket No. 224-3, pp. 142 of 269 and 148 of 269, lines 1-7) He also refused to market the Vireo strategies and never did so. (Docket No. 236-7, pp. 157 of 465 and 158 of 465, lines 23-25; Docket No. 236-8, pp. 231 of 249 – 232 of 249, lines 12 - 18)

31. LN was, is and always had been a hands-off manager, owner, and employer, who preferred/prefers to hire people he trusts and believed to be competent to do their jobs and run the day-to-day operations of the company, while he focused on developing, refining, and setting overall strategic policy and vision for NAI. (Docket No. 224-1, p. 181 of 309 at ¶2nd) He focused on writing newsletters and white papers, overseeing investment advice for NAI's core strategies, giving seminars on his insights and outlook on the markets in general and building the good will of NAI.

31a. NAI created its own Vireo marketing material. NAI policy was that Vireo marketing material was only allowed to be distributed after Knapp and NAI's compliance team and Kuyper reviewed and approved said material. (Docket No. 224-1, p. 178 of 309 at ¶5th)

31b. Peter Knapp and Arjen Kuyper were responsible for presentation of historical performance of the Index. (Docket No. 224-1, p. 180 of 309 at ¶2nd)

31c. Howard Present said that he could not provide statements from the originator (Morton) because it was a small firm that would not share information. (Docket No. 224-1, p. 180 of 309 at ¶4th)

31d. Louis Navellier and other NAI portfolio managers ***did not provide*** investment advice for the Vireo strategies. Mr. Navellier was not involved because he did not like using other (non-NAI) peoples' research. (Docket No. 224-1, p. 181 of 309 at ¶2nd)

31e. NAI was getting lots of calls about Vireo but not about its performance. (Docket No. 224-1, pp. 181 of 309 at ¶5th - 182 of 309 at ¶1st and ¶2nd)

32. As part of the standard model management agreement with F2, F2 insisted on reviewing any Navellier marketing material. (Docket No. 224-1, pp. 147 of 149 and 149 of 309 at ¶ <u>Pre-approval of Marketing Materials</u>)

33. F2 also provided its own marketing material and information to NAI. (Docket No. 224-3, pp. 13 of 269 - 34 of 269)

34. F2 also provided its own marketing material and information to F2's other licensees. (Docket No. 224-3, pp. 36 of 269 - 57 of 269; 59 of 269 - 71 of 269; 73 of 269 - 107 of 269 and 109 of 269 - 140 of 269)

35. The F2 marketing material contained the F2 hypothetical historical AlphaSector ***index*** performance history going back to April 2001. (Docket No. 224-3, p. 44 of 269)

37. The 2001 to 2008 F2 AlphaSector Allocator Index and NAI Vireo AlphaSector Premium Index performance graphs that were contained in NAI's AlphaSector Allocator and Vireo Premium brochures (that the SEC claims were misleading) are the clearly labeled performance records of the F2 AlphaSector Allocator ***Index*** (Docket No. 224-3, pp. 152 of 269) and of the F2 AlphaSector Premium ***Index***, (Docket No. 224-3, pp. 159 of 269)

37a. The source of F2's historical, hypothetical index performance was NASDAQ OMX's index performance calculations. NASDAQ OMX stated "NASDAQ calculated historical values of the Index back to the inception date . . . This data was indicated to represent live, historical investment decisions. . . . The historical track record went back to the inception date of April 1, 2001." (Docket No. 224-1, p. 201 of 309) F-Squared approached our firm . . . and we began the process of converting their existing live investment strategy to a . . . public index." (*Id*., p. 200) (Docket No. 224-1, p. 200 of 309) "This engine has been developed over a period of time dating back to 2001 and has had Private Wealth client assets managed based on its output over that entire time period." *Id*., p. 202 (Docket No. 224-1, pp. 202 of 309)

37b) Index performance is the performance track record of how the hypothetical collection of stocks would have performed if stocks had actually been bought, sold or held according to the Index's strategy. In contrast, an actual or "composite" performance track record measures how clients' accounts, actually investing their money according to a strategy, actually performed.

38. The 2001 to 2008 F2 AlphaSector Allocator and F2 AlphaSector Premium performance records, contained in NAI's brochures and disseminated by NAI to other investment advisors and brokerage professionals, clearly indicate the hypothetical performance of the F2 AlphaSector Allocator Index (Docket No. 224-3, p. 152 of 269) and of the F2 AlphaSector Premium Index. (Docket No. 224-3, p. 159 of 269) They are not (as the SEC tries to assert) the performance records of NAI's actual management of its Vireo AlphaSector Allocator or Vireo AlphaSector Premium actual investment strategies. NAI set forth clearly, in its brochures, how its actual management of its clients' accounts (invested according to NAI's Vireo AlphaSector Allocator strategy) performed, and how its Vireo AlphaSector Premium clients' accounts (composites") performed from 2010 forward, when NAI managed their monies. (Docket No. 236, pp. 1 of 137, 3 of 137 and 4 of 137; Docket No. 236-8, pp. 75 of 249 - 107 of 249; Docket No. 236-8, pp. 109 of 249 - 156 of 249) ***The***

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F2 Index performance records are not the performance track records of those strategies with real money invested and managed by NAI according to those strategies. (Docket No. 224-3, pp. 166 of 269 and 167 of 269; Docket No. 224-3, pp. 169 of 269 and 170 of 269)

39. The disclosures, which were part of the brochures that contained those F2 index performance records from 2001-2008, make clear that the F2 Index performance shown is the hypothetical performance, from 2001-2008, of how the ETFs in the F2 AlphaSector index strategy would hypothetically have performed (before reductions for trading costs and fees) applying the AlphaSector strategy if someone had actually invested in those ETFs during the entire 2001-2008 period. (Docket No. 224-3, pp. 152 of 269 - 157 of 269; Docket No. 224-3, pp. 159 of 269 - 164 of 269)

42. The SEC itself has issued two "No Action Letters[1]" (Docket No. 227, pp. 1 of 30 and 7 of 30, ¶42), the Clover Letter and the LDS Letter indicating it would take no enforcement action (i.e., that it is not a violation of Section 206 of the Investment

[1] An SEC "No Action Letter" is an SEC written response to an inquiry from a person or entity subject to SEC regulation and enforcement seeking guidance from the SEC as to whether it (the SEC) would take enforcement action, i.e., consider the proposed action a violation of the securities laws if the questioner took the proposed actions.

The SEC's published response that it would not consider the proposed action (or action as modified according to SEC suggestions) a violation and would not bring enforcement proceedings, is guidance to others that the SEC will not seek enforcement for such actions, i.e., that such actions are not securities law violations.

Advisors Act) for an investment adviser to advertise its hypothetical historical performance for a strategy, before actual ("live") money was managed according to that strategy, if it is clearly disclosed that the performance is hypothetical and is not an indication of how an investment of real money according to that strategy performed.

43. In both of those No Action Letters, the SEC indicated that it would not consider advertising of hypothetical or "back tested[2]", historical performance for an investment strategy to be a securities law violation so long as certain disclosures were made in the advertisement indicating that the performance was hypothetical performance.

43a. Hypothetical performance of an existing strategy is not "back testing", i.e., creating a strategy for an index based on an existing strategy is not back testing. (Docket No. 224-1, pp. 201 of 309 and 202 of 309; Docket No. 224-1, p. 190 of 309)

45. The Navellier broker brochures for its Vireo AlphaSector Allocator and Vireo AlphaSector Premium strategies were not, as the SEC claims, "advertisements". The Navellier brochures for its Vireo AlphaSector Allocator and Vireo AlphaSector Premium strategies were clearly marked for one-on-one presentations to other sophisticated, registered investment advisors or financial advisors. (Docket No. 224-

[2] The SEC considers "back tested" to mean hypothetical or model performance.

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3, p. 176 of 269 - 269 of 269; Docket No. 224-4, p. 3 of 583 - 60 of 583; Docket No. 236-7, pp. 15 of 465 - 20 of 465; Docket No. 236-7, pp. 22 of 465 - 27 of 465)

47. The Navellier broker brochures for its Vireo AlphaSector Allocator and Vireo AlphaSector Premium strategies were not distributed to or authorized to be distributed to investors or potential investors in the Vireo AlphaSector strategies. (Docket No. 224-3, p. 172 of 269 then pp. 152 of 269 - 157 of 269; Docket No. 224-3, p. 174 of 269 then pp. 159 of 269 - 164 of 269); Docket No. 224-3, p. 176 of 269 - 269 of 269; Docket No. 224-4, p. 3 of 583 - 60 of 583; Docket No. 236-7, pp. 15 of 465 - 20 of 465; Docket No. 236-7, pp. 22 of 465 - 27 of 465; Docket No. 224-4, p. 66 of 583 – 70 of 583)

49. NAI made its AlphaSector investment advisory services known to other, selected investment advisors or stockbrokers. Those selected investment advisers or financial advisers who were interested in having their money managed according to the Vireo AlphaSector Allocator strategy or the Vireo AlphaSector Premium strategy would enter into "dual contracts" or "wrap fee" contracts with their own investment adviser or broker and NAI, for NAI (not Mr. Navellier) to invest their money according to the Vireo AlphaSector strategy the investor had selected.

50. Under a "dual contract", the referring investment advisor (for example, Wells Fargo Advisors) ("WFA") and NAI each entered into an investment advisory agreement with the client for the administration/oversight of the client's account by

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the investment advisory firm (for example WFA) and for the investment management of the client's account by NAI and the client paying the referring advisor and NAI separately.

51. Under a "wrap fee" contract, the referring advisor and the client entered into a contract and the client paid the referring advisor a single fee (wrap fee) which included NAI's advisory fee, which advisory fee the referring advisor then paid to NAI.

52. WFA marketed the Vireo AlphaSector Allocator and the Vireo AlphaSector Premium strategies to its clients and referred at least 4,000 of its clients to NAI for its Vireo AlphaSector Allocator and Vireo AlphaSector Premium strategies, pursuant to wrap or dual contracts. (Docket No. 224-1, pp. 204 of 309 - 293 of 309)

53. RBC marketed these NAI Vireo strategies to its clients and referred at least 100 of them, with assets of over $100 Million, pursuant to dual contracts, for co-management to NAI. (Docket No. 224-1, pp. 204 of 309 - 293 of 309)

54. LPL marketed these strategies and referred its clients, pursuant to dual contracts, for co-management to NAI. (Docket No. 224-1, pp. 204 of 309 - 293 of 309)

55. Compass marketed these strategies and referred its clients to NAI under dual contracts. (Docket No. 224-1, pp. 204 of 309 - 293 of 309)

56. Congress marketed these strategies to its clients and referred them to NAI pursuant to dual contracts. (Docket No. 224-1, pp. 204 of 309 - 293 of 309)

58. LN is an investment adviser but was not an investment adviser to any of the Vireo AlphaSector Allocator or Vireo AlphaSector Premium clients who the SEC claims were the "victims" of each of NAI's and Mr. Navellier's alleged misrepresentations.

59. LN did not market or advertise the AlphaSector Allocator or AlphaSector Premium strategies. (Docket No. 224-4, pp. 79 of 583)

65. LN did not manage or provide investment advice applying those Vireo strategies to any persons or entities. (Docket No. 224-4, pp. 83 of 583 – 85 of 583; Docket No. 224-4, pp. 87 of 583 and 88 of 583)

66. Between August 11, 2011 and June of 2012, NAI presented to professional investment advisers, broker brochures for Vireo AlphaSector Allocator (Docket No. 224-3, pp. 152 of 269 – 157 of 269; Docket No. 224-3, pp. 176 of 269 - 181 of 269; Docket No. 224-3, pp. 192 of 269 – 233 of 269; Docket No. 224-3, pp. 244 of 269 – 251 of 269) and for Vireo AlphaSector Premium (Docket No. 224-3, pp. 159 of 269 - 164 of 269; Docket No. 224-3, pp. 183 of 269 – 190 of 269; Docket No. 224-3, pp. 235 of 269 - 242 of 269; Docket No. 224-3, pp. 253 of 269 - 260 of 269)

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68. Those brochures contained an F2 AlphaSector Allocator index performance record from April 2001-2008. (Docket No. 224-3, pp. 152 of 269 – 157 of 269; Docket No. 224-3, pp. 176 of 269 - 181 of 269; Docket No. 224-3, pp. 192 of 269 – 233 of 269; Docket No. 224-3, pp. 244 of 269 – 251 of 269) and for Vireo AlphaSector Premium (Docket No. 224-3, pp. 159 of 269 - 164 of 269; Docket No. 224-3, pp. 183 of 269 – 190 of 269; Docket No. 224-3, pp. 235 of 269 - 242 of 269; Docket No. 224-3, pp. 253 of 269 - 260 of 269)

69. Those brochures clearly indicated that the 2001-2008 index performance record contained therein was how the hypothetical performance of the F2 AlphaSector index for each of those strategies would have hypothetically performed during the period 2001-2008, *Id.*

69a. Each of those NAI Vireo brochures also contained NAI's actual performance record for the NAI Vireo strategy in which it invested its clients' money for that Vireo strategy beginning in 2010 when NAI started investing for that strategy.

71. The NAI broker brochures also clearly indicated that the source of the 2001-2008 index performance records was Morningstar or NASDAQ OMX, a source that NAI believed to be credible. (Docket No. 224-3, pp. 152 of 269 – 157 of 269; Docket No. 224-3, pp. 159 of 269 - 164 of 269; Docket No. 224-3, pp. 176 of 269 - 181 of 269; Docket No. 224-3, pp. 183 of 269 – 190 of 269; Docket No. 224-3, pp. 192 of

269 – 233 of 269; Docket No. 224-3, pp. 235 of 269 - 242 of 269; Docket No. 224-3, pp. 244 of 269 – 251 of 269; Docket No. 224-3, pp. 253 of 269 - 260 of 269)

72. F2 provided the 2001-2008 F2 AlphaSector index performance records to NAI. (224-3, pp. 13 of 269 - 34 of 269) Docket Those F2 AlphaSector Index performance records had been calculated by NASDAQ OMX.

73. F2 provided those 2001-2008 index performance records to numerous other investment advisory firms to whom it licensed these strategies. (224-3, pp. 36 of 269 - 57 of 269; 224-3, pp. 59 of 269 - 71 of 269; 224-3, pp. 73 of 269 – 107 of 269; 224-3, pp. 109 of 269 - 140 of 269)

74. Howard Present and F2 officers repeatedly told NAI that those 2001-2008 F2 index performance records were correct. (224-4, pp. 90 of 583; 236-7, pp. 29 of 465 - 35 of 465)

75. Those NAI brochures all also contained the clearly shown, GIPS-verified, actual performance achieved by NAI for its investment management of the Vireo AlphaSector Allocator strategy. (224-3, pp. 166 of 269 - 167 of 269; Docket No. 224-3, pp. 152 of 269 – 157 of 269; Docket No. 224-3, pp. 176 of 269 - 181 of 269; Docket No. 224-3, pp. 192 of 269 – 233 of 269; Docket No. 224-3, pp. 244 of 269 – 251 of 269)

76. Those NAI brochures all contained the clearly shown, GIPS-verified, actual performance achieved by NAI for its investment management of the GIPS-verified,

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actual performance for actual management of the AlphaSector Premium strategy. (Docket No. 224-3, pp. 169 of 269 - 170 of 269; Docket No. 224-3, pp. 159 of 269 - 164 of 269; Docket No. 224-3, pp. 183 of 269 – 190 of 269; Docket No. 224-3, pp. 235 of 269 - 242 of 269; Docket No. 224-3, pp. 253 of 269 - 260 of 269)

Similarly Situated

78. NAI's 2010 through July 2011 AlphaSector Allocator and AlphaSector Premium broker brochures contain the following language:

> Navellier Vireo AlphaSector Allocator Premium is a new *strategy* that attempts to track an *index* known as the AlphaSector Allocator Premium Index…
>
> …
>
> The "US equity sleeve" referenced in the materials refers to the AlphaSector Premium *Index*, with the strategy that the AlphaSector Premium Index *is based on having* an inception date of April 1, 2001. The *process of converting the active strategy to an index implies that the returns presented, while not back tested, reflect theoretical performance* an investor would have obtained had it invested in the manner shown and does not represent returns that an investor may have actually attained, as an investor cannot invest directly into an index. (Emphasis added)

(Docket No. 222-32, page 6 of 9)

78a. That statement was a direct quote from the NASDAQ OMX letter. That was based on the NASDAQ OMX letter.

79. The same statement or one with essentially identical language in marketing material was presented to clients and potential clients by WFA (Docket No. 224-6, p. 322 of 428), and by Beaumont. (Docket No. 224-6, pp. 363 of 428 and 348 of 428) The SEC brought the subject District Court action against NAI and Mr. Navellier (Docket No. 1) and moved for partial summary judgment (Docket No. 220) claiming that that statement was false. (Docket No. 221, Section II. A., pp. 5 of 21 and 6 of 21)

80. The SEC produced no evidence whatsoever that that statement was false. (Docket No. 224, p. 17, fn.14), (Docket No. 224-4, pp. 509 of 583 - 510 of 583) (Docket No. 224-6, p. 206 of 428 - 220 of 428)) (Docket No. 224-4, pp. 516 of 583 - 533 of 583)

81. The SEC brought no enforcement action against WFA (Docket No. 224-4, pp. 551 of 583 – 556 of 583), or Beaumont (Docket No. 224-4, p. 555 of 583, lines 18-21) or NASDAQ OMX (Docket No. 224-4, pp. 283 of 583, line 16 - 284 of 583, line 18), or United Capital Financial Advisers (Docket No. 224, p. 17), or Ron Santangelo (Docket No. 236-7, p. 56 of 465 - 72 of 465), or Juan Vargas (Docket No. 236-7, p. 68 of 465 - 72 of 465), or Rick Tomney (Docket No. 224, p. 17; Docket No. 236-7, p. 95 of 465 - 111 of 465), or Cory Hoffstein, or Thomas Rosedale, or Newfound. (Docket No. 224, p. 18)

88 NAI did as much, or substantially more due diligence on F2 and its 2001-2008 index performance record, including receiving and relying on Robert Hughes' NASDAQ OMX confirmation of the validity of the F2 index performance from 2001-2008 (Docket No. 224-1, pp. 299 of 309 - 302 of 3098) as the other advisors and financial advisor entities that marketed that same index performance to their clients.

89. Mr. Haviland of Beaumont Financial Partners admitted that its due diligence consisted of reliance on Howard Present's representations and the NASDAQ OMX letter. (Docket No. 224-4, pp. 94 of 583 - 110 of 583)

90. Just like NAI, Mr. Haviland asked for but was not given trade confirmations or statements to support the 2001-2008 index[3] performance. (Docket No. 224-4, pp. 112 of 583 - 118 of 583)

91. There are no confirmations or statements for indexes because indexes do not actually make trades.

92. David Hallman of United Capital Advisers, which marketed these AlphaSector strategies to its bank customers, admitted that he repeatedly asked for

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but was not given confirmations of the trades (Docket No. 224-4, pp. 120 of 583 - 138 of 583)

93. United Capital Advisers still had its investment advisory clients invest in these strategies. (Docket No. 224-4, pp. 140 of 583 - 1580 of 583)

94. Patti Loepker oversaw investment adviser marketing for Wells Fargo Advisors which raised over $1.3 Billion just for investment in these Vireo strategies (Docket No. 224-1, pp. 293 of 309)

95. Patti Loepker testified that Wells Fargo Advisors put these strategies on its Professional Advisor Network ("PAN") platform (and on its website) with no due diligence done on these AlphaSector index performance records or oversight of WFA's thousands of financial advisors who were marketing these AlphaSector index performance records. (Docket No. 224-4, pp. 160 of 583 - 169 of 583)

96. WFA provided its financial advisors with Morningstar Direct screens whereby they could and did access F2's 2001-2008 AlphaSector index performance records and print them out to distribute to clients for marketing purposes. (Docket No. 224-4, pp. 171 of 583 - 175 of 583)

97. The SEC claims, in this action, that NAI (and LN) were negligent or fraudulent in allegedly distributing (they did not) (Docket No. 224-4, pp. 177 of 583 - 178 of 583) these same Morningstar Direct F2 index performance "tear sheets".

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98. Morningstar Direct is a computer application that can be purchased from Morningstar (a highly respected data provider that analyzes and distributes financial analyses of how various financial advisors and their strategies perform over time. However, the Morningstar Direct app simply prints out on Morningstar Direct letterhead, the performance data that is provided by a given investment advisor. It does not provide a performance record analyzed by Morningstar itself.

99. Robert Hughes of NASDAQ OMX, the pre-eminent index performance record calculator/analyst (Docket No. 224-1, pp. 308 of 309 – 309 of 309), testified that NASDAQ OMX supposedly did do and represented that it had done due diligence and analyzed the 2001-2008 index performance records of the F2 AlphaSector Allocator and AlphaSector Premium indexes.

100. NASDAQ OMX confirmed the index performance in writing for F2 to use and distribute to investment advisors, including NAI. (Docket No. 224-4, pp. 192 of 583 - 195 of 583; Docket No. 224-1, pp. 299 of 309 – 302 of 309)

101. Mr. Hughes later admitted in his deposition that he really didn’t write the letter. (Docket No. 224-4, pp. 198 of 583 - 215 of 583)

102. Mr. Hughes testified that NASDAQ OMX didn’t do any real due diligence on the 2001-2008 index performance (Docket No. 224-4, pp. 217 of 583 - 226 of 583)

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103. Mr. Hughes testified that "his" letter was actually written and given to him on F2 stationery by Howard Present, CEO of F2. (Docket No. 224-4, pp. 198 of 583 - 215 of 583; (Docket No. 224-4, pp. 230 of 583 - 241 of 583)

104. Mr. Hughes testified that he then re-printed it verbatim on NASDAQ OMX stationery, without doing due diligence to determine if the performance and statements were true, and personally signed it (Docket No. 224-4, pp. 198 of 583 - 215 of 583; Docket No. 224-1, pp. 299 of 309 - 302 of 309; Docket No. 224-4, pp. 245 of 583 - 248 of 583) without believing the information was even true. (Docket No. 224-4, pp. 198 of 583 - 215 of 583)

105. Mr. Hughes testified that he did all that as a favor to Howard Present (Docket No. 224-4, pp. 250 of 583 - 258 of 583) who contemporaneously happened to be promising him that F2 would be contracting with NASDAQ OMX to publish sixty-four (64) other F2 indexes at $90,000 per index. (Docket No. 224-4, pp. 260 of 583 - 274 of 583)

106. The SEC was aware of NASDAQ OMX's and Mr. Hughes' supposedly fraudulent letter and AlphaSector index verification. (Docket No. 224-4, pp. 265 of 583 - 274 of 583)

106a. The SEC knew that NAI relied on the NASDAQ OMX letter, but still continued to litigate against NAI and LN in bad faith.

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107. The SEC brought no enforcement action, sought no penalties and did not censure, suspend or bar NASDAQ OMX, Mr. Hughes or anyone else at NASDAQ OMX from the securities industry for aiding and abetting F2 in its alleged "fraudulent" scheme. (Docket No. 224-4, pp. 276 of 583 - 285 of 583)

108. As to the small investment advisory firms that the SEC did select to enforce against for marketing the same 2001-2008 AlphaSector index performance record, the SEC only imposed penalties of $100,000 to $500,000.

109. The SEC did not seek disgorgement, censure or a lifetime ban from the securities industry against any of these firms and sought no enforcement of any kind against any of the individuals at those firms. (Docket No. 224-4, pp. 287 of 583 – 398 of 583; Docket No. 236-7, pp. 44 of 465 - 53 of 465)

110. The SEC imposed only monetary penalties in the following amounts against the following investment advisory firms: AssetMark ($500,000); BB & J Securities ($200,000); Banyan Partners ($200,000) Congress Wealth Management ($100,000); Constellation Wealth Advisors ($100,000); Executive Monetary Management ($100,000); HT Partners ($100,000); Hilliard Lyons ($200,000); Ladenburg Thalman Asset Management ($200,000); Prospera Financial Services ($100,000); Risk Paradigm Group ($100,000); Scheider Downs Wealth Management Advisors ($100,000); Shamrock Asset Management ($200,000). (Docket No. 224-4, pp. 287 of 583 – 398 of 583; Docket No. 236-7, pp. 44 of 465 - 53 of 465)

111. The SEC agreed to a $13.4 Million disgorgement and censure against Virtus. (Docket No. 224-4, pp. 439 of 583 - 449 of 583)

112. The SEC agreed to a $6.3 Million disgorgement and censure against Ameriprise (Docket No. 224-4, pp. 451 of 583 - 459 of 583)

113. The SEC agreed to a $ 482,595 disgorgement and censure against Horter. (Docket No. 224-4, pp. 461 of 583 - 468 of 583)

114. The SEC sought no lifetime (or any) ban from the securities industry against any of them. (Docket No. 224-4, pp. 439 of 583 - 468 of 583)

115. The SEC did not seek any enforcement against any individual at any of these 21 firms. (Docket No. 224-4, pp. 287 of 583 – 398 of 583; Docket No. 236-7, pp. 44 of 465 - 53 of 465; Docket No. 224-4, pp. 439 of 583 - 468 of 583)

Punishment / Bad Faith / Animus – Improper Purpose

116. The SEC is seeking $23 Million in disgorgement from NAI and LN and lifetime bans from the securities industry against NAI and LN in this action, despite the fact that the SEC has conceded that, even if NAI had committed the violations that the SEC claims NAI committed, the "ill-gotten gains" attributable to those violations which would be legally "disgorgeable" is only $360,935 (Docket No. 224-

4, pp. 470 of 583 - 471 of 583), not the $23 Million that the SEC is seeking herein. (**Docket No. 1**)

117. The SEC conceded that there was no need or basis for any enforcement action against LN and no need or basis for banning NAI from the securities industry. (Docket No. 224-4, pp. 470 of 583 - 471 of 583; Docket No. 224-4, pp. 477 of 583 - 480 of 583)

118. The SEC is improperly seeking those penalties (67 times the amount it could legally disgorge even if it could prove violations) in order to punish NAI and LN for not agreeing to rescind the settlement agreement they had entered into with the SEC) (Docket No. 224-4, pp. 470 of 583 - 471 of 583; Docket No. 224-4, pp. 477 of 583 - 480 of 583; Docket No. 224-4, pp. 482 of 583; Docket No. 224-4, pp. 484 of 583) and replace it with a more onerous proposed settlement (Docket No. 224-4, pp. 486 of 583 - 493 of 583; Docket No. 224-4, pp. 499 of 583 - 500 of 583; Docket No. 224-4, pp. 502 of 583 - 504 of 583) containing a new settlement provision after NAI and LN and the SEC had previously agreed to an earlier settlement.

Similarly Situated Individuals

119. The SEC has improperly brought this action, not only against NAI but also against LN personally, claiming he directly violated Sections 206(1), 206(2) and 206(4) of the Investment Advisors Act by allegedly negligently and fraudulently marketing the AlphaSector 2001-2008 index performance records (Docket No. 1)

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or, in the alternative, aiding and abetting NAI in allegedly negligently and fraudulently marketing those 2001-2008 index performance records. (Docket No. 1)

120. Mr. Navellier never marketed those strategies to anyone and did not aid or abet in the distribution of those index performance records.

121. The index performance records were not false or incorrect. It has not been proven (and it is disputed by NAI and LN) that those 2001-2008 index performance records were false or that the performance calculations were incorrect. They were not.

122. The performance record spread sheet provided to NAI by F2 was tested and confirmed by NAI to be correct. (Docket No. 224-3, pp. 3 of 269)

123. The SEC has refused to produce any calculation work sheets or evidence to corroborate its claim in this case that the index performance record was overstated, (Docket No. 224-4, pp. 509 of 583 - 510 of 583) (Docket No. 224, p. 17, fn.14)

124. The SEC has refused to produce any calculation work sheets or evidence to corroborate its claim despite NAI's repeated discovery demands for such "evidence" by way of interrogatories (Docket No. 224-6, pp. 206 of 428 - 220 of 428), depositions), and document requests. (Docket No. 224-4, pp. 516 of 583 - 533 of 583)

125. Mr. Navellier repeatedly tried to discourage and stifle his own salespeople from "marketing" the Vireo AlphaSector Allocator and Vireo AlphaSector Premium

strategies, not because he knew them to be false (he didn't) (Docket No. 224-4, pp. 537 of 583 - 540 of 583), but because he personally didn't like ("hated" and was jealous of) Howard Present and how he was appropriating NAI's salespeople away from marketing NAI core products. (Docket No. 224-4, pp. 542 of 583 - 545 of 583)

126. Mr. Navellier didn't want those defensive strategies "marketed" by NAI because they conflicted with NAI's core strategies. (Docket No. 224-4, pp. 547 of 583 - 549 of 583; Docket No. 224-3, pp. 9 of 269 - 10 of 269)

127. In addition to taking no enforcement action against Robert Hughes, the SEC took no enforcement action against Patti Loepker of WFA who condoned WFA's marketing of these AlphaSector index performance records and did no due diligence. (Docket No. 224-4, pp. 551 of 583 - 556 of 583)

128. The SEC brought no enforcement against Ron Santangelo, a member of the investment committee of F2, who did not disclose and who approved dissemination of F2's AlphaSector 2001-2008 index performance record.

129. The SEC did not bring any enforcement action against Juan Vargas, the F2 analyst who allegedly conspired with and assisted Howard Present in creating the allegedly false F2 AlphaSector 2001-2008 index performance records. (Docket No. 236-7, pp. 68 of 465 - 72 of 465)

130. The SEC did not bring any enforcement action against Rick Tomney, Howard Present's right-hand man, who repeatedly confirmed to NAI and other investment

advisors that the 2001-2008 index performance records were true. (Docket No. 236-7, pp. 94 of 465 - 111 of 465)

131. The SEC brought no enforcement action against any individuals at Virtus, such as Peter Bachelor, who supposedly knew that the 2001-2008 performance record was supposedly false, but still ordered the Virtus marketers to continue to market it.

132. The SEC brought no enforcement action against Cory Hoffstein or Jay Morton or Thomas Rosedale, or Newfound, the persons and entity that conspired with and aided and abetted F2 and Howard Present in their marketing of the allegedly fraudulent 2001-2008 AlphaSector index performance record.

133. Mr. Hoffstein, Mr. Morton and Mr. Rosedale collaborated with Howard Present and F2 to create the allegedly false index performance records and then stood silently by as the allegedly false index performance records were marketed by F2, never disputing that the AlphaSector strategy and index performance began in 2001, because those individuals were reaping the profits to the tune of $3 Million per year each from the licensing and advertising of those strategies having an inception date of April 2001 and an index performance record from 2001-2008.

134. Instead of enforcing against these three alleged, principal "violators" (the originators, along with Howard Present and F2, of the alleged fraud about the index performance record), the SEC allowed them to keep all their "profits" and, in

addition, paid them whistleblower fees for giving testimony against Howard Present. (Docket No. 224-4, pp. 574 of 583 – 578 of 583)

135. Mr. Hoffman and Mr. Morton only came forward with whistleblower accusations after Howard Present and F2 terminated the licensing agreement and the millions of dollars to each of them in royalties that they were receiving from F2.

The Sale

136. Louis Navellier denigrated NAI's own Vireo strategies internally at NAI. (Docket No. 224-4, pp. 535 of 583; Docket No. 224-4, pp. 537 of 583 - 540 of 583)

137. Louis Navellier clashed with Howard Present personally.

138. On August 6, 2013, NAI accepted F2's offer to buy NAI's Vireo good will (customer list, broker list, advisor list and NAI GIPS- compliant actual performance records) for $14 Million. (Docket No. 236-5, pp. 3 of 395 - 373 of 395)

139. At the time of F2's purchase, NAI had made $350 Million in profits for its clients who had invested in these strategies. (Docket No. 224-1, pp. 204 of 309 – 293 of 309)

140. None of those over 6,000 Vireo clients sued NAI or LN for fraud or false advertising or for misleading them with a 2001-2008 index performance record or for rescission or for violations of the Investment Advisors Act or for any other claim. No class actions were filed against NAI or LN. No client complained to NAI about being harmed as a result of the performance record.

141. When NAI sold its Vireo goodwill to F2, almost all of the 6,000 plus Vireo clients consented to the sale and remained invested in those AlphaSector strategies with the allegedly false index performance records and have continued to have their monies managed by F2, using the AlphaSector strategies. (Docket No. 224-1, pp. 204 of 309 – 293 of 309)

142. The fact that almost all of the 6,000 plus Vireo clients consented to the sale and remained invested in those AlphaSector strategies, is clear evidence that they were in the strategies because of the actual performance, not the 2001-2008 hypothetical index performance.

The SEC's Investigations and Selective enforcement

143. Beginning in October of 2013, as part of the SEC's investigation of F2, the SEC began serving investigative subpoenas on NAI and 134 other investment advisory firms and individuals who had licensed or marketed the AlphaSector Allocator and AlphaSector Premium strategies from F2.) (Docket No. 224-5, pp. 379 of 395 – 395 of 395)

144. Over the next three years, the SEC gathered and reviewed over 15 million pages of documents from those investment advisory firms, entities, and individuals, conducted numerous interviews, took numerous investigative depositions. (Docket No. 224-5, pp. 379 of 395 – 395 of 395)

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145. In 2014, the SEC brought an administrative enforcement action against F2. (Docket No. 224-4, pp. 486 of 583 – 493 of 583

146. Later in 2014, the SEC filed a civil action against Howard Present.

147. On August 25, 2016, the SEC coerced "settlements" with 15 of the investment advisory firms that had licensed and/or marketed the F2 AlphaSector Allocator and/or F2 AlphaSector Premium 2001-2008 index performance record. (Docket No. 224-4, pp. 287 of 583 – 398 of 583; Docket No. 236-7, pp. 43 of 465 - 53 of 465; Docket No. 224-4, pp. 439 of 583 - 449 of 583)

148. A year later, the SEC coerced settlements with Ameriprise (Docket No. 224-4, pp. 451 of 583 - 459 of 583) and Horter. (Docket No. 224-4, pp. 461 of 583 - 468 of 583)

149. Among those subpoenaed by the SEC were NAI, LN, and a number of NAI employees.

150. In October of 2016, the SEC began "settlement negotiations" with NAI, by demanding payment of $23 Million in disgorgement. (Docket No. 224-6, p. 46 of 428 - 468 of 583)

151. The demand was based on NAI's alleged violations of the Investment Advisors Act in marketing the supposedly false AlphaSector index performance record.

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152. The SEC demanded disgorgement of the supposed $9 Million in profits NAI supposedly made managing all its Vireo AlphaSector strategies (the vast majority of which were AlphaSector Alphadex strategies which did not have "tainted" 2001-2008 index performance "marketing" materials and which the SEC did not claim violated the securities laws.

153. The SEC's $23 Million demand sought disgorgement of fees NAI earned for managing investments in strategies before August 11, 2011 (which disgorgement is barred by the statute of limitations) (*Kokech vs SEC* (2017) 137 S. Ct. 1635, 164) and after June 2012, when there was no "marketing" of the 2001-2008 index performance record.

154. The SEC sought disgorgement of NAI's investment advisory <u>fees</u>, despite the fact that NAI had <u>made</u> $350 Million for its AlphaSector management clients managing their monies. (Docket No. 224-1, pp. 204 of 309 - 293 of 309)

155. The SEC also sought disgorgement of the $14 Million in sale proceeds NAI received from the sale of its goodwill to F2. (Docket No. 224-6, pp. 45 of 428 - 46 of 428)

156. NAI denied any violations and presented detailed, financial information to the SEC to refute the SEC claim for $23 Million in "ill-gotten gains". (Docket No. 224-6, pp. 49 of 428 - 56 of 428 and Docket No. 224-6, pp. 58 of 428 - 61 of 428)

157. NAI demonstrated that only the broker brochures for the Vireo AlphaSector Allocator and for the Vireo AlphaSector Premium strategies contained references to a 2001-2008 index performance record. (Docket No. 224-6, pp. 49 of 428 - 56 of 428 and Docket No. 224-6, pp. 58 of 428 - 61 of 428)

158. NAI also demonstrated that, as a matter of law, the statute of limitations barred any disgorgement for the period prior to August 11, 2011 and that the Vireo brochures after June 2012 did not contain the allegedly false index performance record. (Docket No. 224-6, pp. 49 of 428 - 56 of 428 and Docket No. 224-6, pp. 58 of 428 - 61 of 428)

159. Even if NAI had committed securities law violations (it did not), disgorgement was only available for profits for the period August 11, 2011 through June 2012. That amounted to $360,935 as later conceded by the SEC. (Docket No. 224-4, pp. 470 of 583 - 471 of 583)

160. There was no legal basis and no securities law violation in NAI selling its Vireo goodwill and assets to F2.

161. F2 could not have been defrauded by the 2001-2008 index performance record that it created.

162. The NAI Vireo clients did not have to transfer to F2. The fact that clients did go to shows that the goodwill was from NAI actual performance and not from the

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2001-2008 index performance record. Therefore, there was no basis for disgorgement of the $14 Million in sale proceeds.

163. On April 24, 2017, William Donahue of the SEC sent an e-mail setting forth the basis for the SEC's offer of settlement, indicating that it agreed to no disgorgement of the $14 Million, and to limiting disgorgement of NAI's investment advisory fees to the fees for the period August 11, 2011 through June 2012 and only for fees for managing the Allocator and Premium strategies. (Docket No. 224-4, pp. 470 of 583 - 471 of 583)

164. The SEC and NAI and LN reached a settlement agreement agreeing to a settlement of $714,425 payable by NAI and consisting of $360,935 in disgorgement, $ 53,530 in pre-judgment interest on said disgorgement and a $300,000 penalty (Docket No. 224-4, pp. 470 of 583 - 471 of 583)

165. The SEC also agreed to no claims or enforcement brought against Mr. Navellier personally. (Docket No. 224-4, pp. 470 of 583 - 471 of 583; Docket No. 224-4, pp. 477 of 583 - 480 of 583; Docket No. 224-4, pp. 482 of 583; Docket No. 224-4, pp. 484 of 583)

166. When the SEC wrote up the settlement in the form of an administrative "order", the SEC added two new terms that were not part of the settlement agreement that had been reached and agreed upon. The SEC added a new provision for a

"censure" of NAI and a new provision that NAI had "willfully" made misrepresentations. (Docket No. 224-4, pp. 491 of 583)

167. Those two new terms were materially different from the terms NAI and the SEC had agreed to. (Docket No. 224-4, pp. 470 of 583 - 471 of 583; Docket No. 224-4, pp. 477 of 583 - 480 of 583; Docket No. 224-4, pp. 482 of 583; Docket No. 224-4, pp. 484 of 583)

168. NAI was unwilling to change the settlement. (Docket No. 224-6, p. 63 of 428)

169. The SEC then threatened that, if NAI did not agree to change the settlement that had been agreed upon to include these two, new, not-agreed-upon terms, it would bring a civil enforcement action, not only against NAI, but also against LN personally (even though it had always agreed to settle with no action against LN) and that it would claim $23 Million in disgorgement and seek lifetime bans from the securities industry against, not only NAI, but also against LN individually (even though the SEC had never sought or claimed any enforcement against Mr. Navellier). (Docket No. 224-6, p. 65 of 428 – 67 of 428)

170. When NAI declined to rescind the settlement agreement it and the SEC had made, the SEC decided to punish not only NAI, but also LN, by filing this action against NAI and against LN personally, seeking $23 Million in disgorgement and lifetime bans against both the company and the individual. (Docket No. 1)

171. The adverse publicity of the SEC's lawsuit against NAI accelerated the destruction of NAI's business (which destruction began when the SEC publicly announced its baseless Wells Notice against NAI (Docket No. 224-6, p. 69 of 428 – 73 of 428)

172. NAI and Mr. Navellier caved in to the SEC's coercion and offered and agreed to all of the settlement terms previously agreed upon and to the two new terms ("censure" and "willful") the SEC had demanded in its proposed Order (Docket No. 224-4, pp. 486 of 583 - 493 of 583)

173. NAI and LN offered and agreed to pay not only the $714,452 but added $186,000 (for the SEC's "trouble" in filing the civil complaint) and agreed to "censure" and agreed to the "willful" language and even offered another favorable term to the SEC - the hiring of an outside, independent compliance firm to monitor NAI's and LN's actions, to ensure compliance with the securities laws. (Docket No. 224-6, pp. 114 of 428 - 134 of 428)

174. The SEC refused the offers by NAI and LN, i.e., the SEC rejected its own settlement. (**Exhibit 139** and Docket No. 224-4, pp. 486 of 583 - 493 of 583)

175. NAI and LN agreed to all of the SEC's revised settlement terms, but the SEC, in bad faith and in order to punish NAI and LN for not initially agreeing to a changed settlement, refused to agree to its own settlement offer. (Compare Docket No. 224-4, pp. 486 of 583 - 493 of and Docket No. 224-6, pp. 114 of 428 - 134 of 428)

176. The SEC has selectively pursued this litigation against NAI and against LN in bad faith, by claiming that NAI's and LN's alleged marketing of the 2001-2008 AlphaSector index performance record violated Section 206 of the Investment Advisors Act. (Docket No. 1)

177. The SEC did not enforce against WFA, Beaumont, Raymond James, RBC, NASDAQ OMX, First Trust. Fulcrum or the numerous other investment advisory firms and individuals, all of whom marketed the same 2001-2008 AlphaSector index performance record and therefore, also allegedly violated Section 206.

178. Evidence of the SEC's bad faith is the fact that it is seeking disgorgement of \$23 Million when the SEC knows (has conceded) that only \$360,935 in disgorgement is legally recoverable.

179. The SEC is seeking ***67 times*** the amount of disgorgement that is legally permitted.

180. As to the firms and individuals (similarly situated to NAI and LN respectively) that the SEC did enforce against, it only sought penalties (no disgorgement) (Docket No. 224-4, pp. 287 of 583 - 358 of 583) and no censure and no bar from the securities industry and *no individual* enforcement.

181. There is no reason, other than bad faith punishment, for the SEC to seek these draconian penalties.

182. The SEC has gone after LN personally and is seeking 67 times more "disgorgement" ($23 Million) simply because NAI and LN had the temerity to refuse to agree to a revision of the settlement and to then exercise their Sixth Amendment constitutional right to defend themselves against the SEC's baseless demands.

The SEC Motion for Partial summary Judgment

183. The SEC claims in this action that, from 2010 through 2013, NAI and LN knowingly or negligently marketed Vireo "AlphaSector strategies" which "marketing materials" contained allegedly false or misleading AlphaSector 2001-2008 performance records, in violation of Section 206(1), (2) and (4) of the Investment Advisors Act. (Docket No. 1)

184. The SEC produced no evidence to prove that the statement was false.

Respectfully submitted,

DATED: March 16, 2023 LAW OFFICES OF SAMUEL KORNHAUSER

By:/s/ *Samuel Kornhauser*
Samuel Kornhauser

Attorney for Respondents

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CERTIFICATE OF SERVICE

I hereby certify that the **RESPONDENTS' ADDITIONAL STATEMENT OF FACTS** was filed via eFAP and emailed per stipulation to counsel for the Securities and Exchange Commission to

jonesmarc@sec.gov
cardelloj@sec.gov
bakerr@sec.gov
donahuew@sec.gov

and served on

Jennifer A. Cardello
Marc J. Jones
William J. Donahue
Robert B. Baker
SECURITIES AND EXCHANGE COMMISSION
33 Arch Street, 24th Floor
Boston, MA 02110

by first class U.S. Mail pursuant to SEC Rule 150(c) on this 12th day of January 2023.

Dated: March 16, 2023

By: /s/ *Samuel Rolnick*
Samuel Rolnick

CERTIFICATE OF SERVICE

I hereby certify that the **RESPONDENTS' MEMORANDUM AND APPENDIX OF EXHIBITS IN OPPOSITION TO THE SEC'S MOTION FOR SUMMARY JUDGMENT** was filed via eFAP and served by email, per stipulation, to counsel for the Securities and Exchange Commission to

jonesmarc@sec.gov
cardelloj@sec.gov
bakerr@sec.gov
donahuew@sec.gov
at the email addresses above indicated
and on

Jennifer A. Cardello
Marc J. Jones
William J. Donahue
Robert B. Baker
SECURITIES AND EXCHANGE COMMISSION
33 Arch Street, 24th Floor
Boston, MA 02110
by first class U.S. Mail pursuant to SEC Rule 150(c) on this 16th day of March 2023.

Dated: March 16, 2023

By: /s/ *Samuel Rolnick*
Samuel Rolnick

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UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 5520/ June 12, 2020

ADMINISTRATIVE PROCEEDING
File No. 3-19826

In the Matter of **LOUIS NAVELLIER and NAVELLIER & ASSOCIATES, INC.** **Respondents.**	**RESPONDENTS' APPENDIX OF EXHIBITS IN OPPOSITION TO THE SEC'S MOTION FOR SUMMARY JUDGMENT** **VOLUME 1 OF 2** **EXHIBITS 1 - 10**

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Exhibit No.	Description	Date	Vol. No.	Docket. No.	Page. Nos.
1	Plaintiff's Memorandum In Support Of Its Motion For Partial Summary Judgment (excerpt)	08/12/2019	1	221	1 of 21 – 2 of 21
2	Email dated August 10, 2011 from Traci Sinclair attaching Vireo sales materials - broker and retail versions (excerpts from attachment)	08/12/2019 06/30/2011	1	222-7	1 of 15 - 15 of 15
3	Email dated November 9, 2011 from John Ranft to Paul Purcell at 1st Allied attaching Vireo conference call transcripts and sales presentations (excerpts from attachments)	08/12/2019 06/30/2011	1	222-28	1 of 8 - 8 of 8
4	Email dated March 29, 2012 from Peter Nicolas to Daniel Parilo at Wells Fargo Advisors attaching 6/30/11 Vireo sales presentation (excerpts from attachments)	08/12/2019 06/30/2011	1	222-29	1 of 9 – 9 of 9
5	Email dated June 20, 2012 from Cheryl Czyz to Kevin Norman at Wells Fargo Advisors attaching Vireo Special commentary Aug 2011 (excerpts from attachments)	08/12/2019 08/15/2011 08/08/2011	1	222-30	1 of 21 – 21 of 21
6	Email dated October 5, 2011 from John Ranft to Paige Goll at Ladenburg re: Navellier Vireo Portfolios – The Portfolios That Go To Cash (excerpts from attachm	08/12/2019 06/30/2011	1	222-31	1 of 39 – 39 of 39

7	Email dated September 1, 2011 from Cheryl Czyz to Matthew Rickaway at Wells Fargo Advisors re: Vireo Webinar Replay (excerpts from attachments	08/12/2019 03/31/2011	1	222-32	1 of 9 – 9 of 9
8	Email dated June 21, 2012 from Seth Lee to Preston Daniells at R.W. Baird attaching Vireo AS Premium Commentary123111 (excerpts from attachments)	08/12/2019 03/31/2012 12/31/2011	1	222-33	1 of 21 – 21 of 21
9	Memorandum and Order by Judge Casper	02/13/2020	1	252	1 of 23 – 23 of 23
10	Vireo Allocator Brochure	08/12/2019	1	224-3	201 of 269 233 of 269

EXHIBIT 1

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

SECURITIES AND EXCHANGE COMMISSION, Plaintiff, v. NAVELLIER & ASSOCIATES, INC. and LOUIS NAVELLIER, Defendants.	Case No. 17-cv-11633-DJC

PLAINTIFF'S MEMORANDUM
IN SUPPORT OF ITS MOTION FOR PARTIAL SUMMARY JUDGMENT

Pursuant to Fed. R. Civ. P. 56(a) and Local Rule 56.1, the Securities and Exchange Commission submits this memorandum in support of its motion for partial summary judgment. Defendants' Affirmative Defense #14, selective enforcement, fails because they cannot establish they were a "class of one," the absence of a rational basis for treating them differently, or any malice by the Commission. Undisputed facts prove that Defendants made material misrepresentations and omissions, and deceived clients by intentionally failing to correct those representations (Counts I and II). The Commission respectfully requests judgment in its favor on Affirmative Defense #14 and Counts I and II.

UNDISPUTED FACTS

Navellier & Associates ("NAI"), through their "Vireo" line of business, recommended investment strategies branded as "Vireo AlphaSector," to its clients and to other investment professionals. [Statement of Facts, ¶1 ("[¶_]")] These strategies were based on the AlphaSector strategy offered by F-Squared Investments, Inc. ("F-Squared"). [¶2.] Defendants created and distributed Vireo AlphaSector advertising materials that were based on information from F-Squared.

[¶3.] NAI's materials represented that the performance track record of the strategy underlying AlphaSector was based on live trading since approximately 2001. [¶4.] But Defendants—despite advertising that strategy as live traded and not backtested—admit they "lack knowledge or information sufficient to admit or deny whether the strategy said by F-Squared to underlie the AlphaSector index was also back-tested." [¶5.]

I. Facts about Selective Enforcement

A. The Commission's Prosecution of F-Squared-Related Cases

Defendants are part of a particularly large group charged by the Commission for similar conduct. The Commission brought district court cases or administrative proceedings against twenty-two investment advisers, charging each with Advisers Act violations related to misleading marketing representations about the performance track record of F-Squared-related investment products. [¶¶10-11.] Defendants' admit they are similarly situated to these charged parties. [¶12.] Like in this case, the Commission litigated against Howard Present, F-Squared's CEO, seeking injunctions from the court and bar from association with securities firms in follow-on administrative proceedings. [¶13.] In the other nineteen cases, the Commission settled with the advisers. [¶¶10,13.]

B. Investigation, Settlement Negotiations, and Charging of Defendants

The Commission's Enforcement Division staff ("staff") investigated Defendants' misleading advertising of their Vireo products. The parties failed to reach a settlement, so the Commission filed this litigation. Several times before settlement negotiations broke down, the staff told counsel about what a litigation of this matter would look like. The staff gave two presentations (one to each of Defendants' counsel in October 2016 and February 2017), which detailed "Remedies" the staff would recommend seeking, including "Injunctions/Censure." [¶14.] The staff also provided "Wells Notices" to each Defendant in January 2017, stating "that the staff ... ha[d] made a preliminary determination to recommend that the Commission file an enforcement action" against each of them

EXHIBIT 2

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EXHIBIT
25

[redacted]

From: Traci Sinclair <Traci_Sinclair@navellier.com>
Sent: Wednesday, August 10, 2011 2:03 PM
To: Angela Villasenor
Cc: Nancy Samson
Subject: Vireo Allocator
Attachments: 063011 Vireo Allocator Sales Presentation_b.pptx; 063011 Vireo Allocator Sales Presentation_r.pptx

Ang – attached are the broker and retail versions.

Traci Sinclair
Institutional Marketing Manager

NAVELLIER
Calculated Investing

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VIREO™

Confidence Rising

Introducing Vireo

An exciting, new, defensive ETF portfolio

Vireo AlphaSector Allocator Premium Portfolio

R-080311

AlphaSector Allocator Premium Index provides investors critical benefits rarely seen in long-only strategies

- **Alpha is expressed where it is needed the most**
  - Traditional managers attempt to deliver their highest alpha in strong bull markets
    - Traditional portfolios typically exhibit underperformance or modest outperformance in bear markets
  - AlphaSector Allocator Premium Index has historically delivered consistent alpha in "normal" markets and highest alpha in negative markets
    - However, the portfolio can lag in strong bull markets
- **AlphaSector Allocator Premium has the potential to improve consistency of returns across multiple markets**
- **Live track record for U.S. equity sleeve – stress tested across *two* bear markets**
  - Live assets began tracking the strategies:

U.S. Equity – April 1, 2001	International – May 1, 2009
Fixed Income – December1, 2009	Alternatives – December 1, 2009

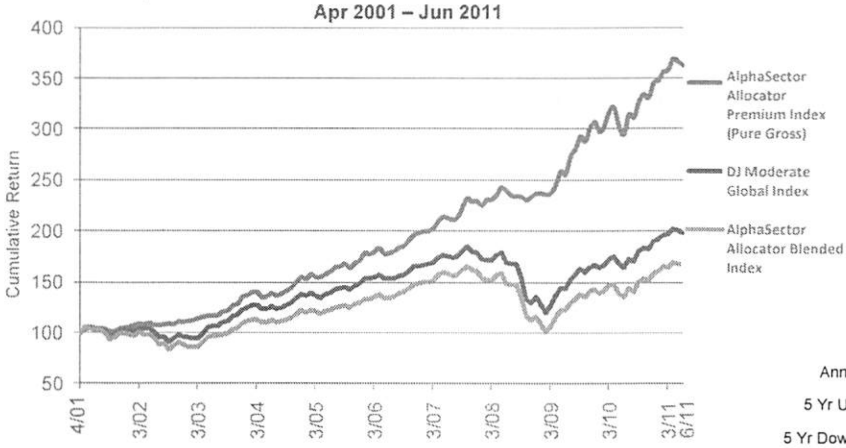
VIREO

Limiting risk in down markets and participating in up markets

AlphaSector Allocator Premium Index is designed to consistently outperform the Dow Jones Moderate Global Index and outperform cash

- Quality downside risk management, especially in weak markets
- Powerful but simple story, and uses **NO** derivatives, leverage, or shorting

AlphaSector Allocator Premium Index Performance
Apr 2001 – Jun 2011



As of Jun 2011

	AlphaSector Allocator Premium Index (Pure Gross)	vs. DJ Moderate Global Index	AlphaSector Allocator Premium Index (Pure Gross)	vs. AlphaSector Allocator Blended Index
Cum. Return	262.4%	99.0%	262.4%	66.6%
1 Yr Return	22.9%	20.8%	22.9%	22.4%
3 Yr Return	14.9%	5.5%	14.9%	3.7%
5 Yr Return	15.2%	5.4%	15.2%	4.3%
Max Drawdown	-8.2%	-35.1%	-8.2%	-39.3%
Std. Dev.	7.3%	10.7%	7.3%	11.4%
Alpha	9.7%	N/A	10.8%	N/A
R-Squared	51%	N/A	52%	N/A
Beta	0.5%	N/A	0.5%	N/A
Ann. Excess Return	6.4%	N/A	8.3%	N/A
5 Yr Up Capture Ratio	100%	N/A	93%	N/A
5 Yr Down Capture Ratio	38%	N/A	33%	N/A

For Financial Consultant One-on-One Use Only. Source: Zephyr StyleAdvisor, F-Squared Investments, Inc. Performance results presented herein do not necessarily indicate future performance. **Investment in equity strategies involves substantial risk and has the potential for partial or complete loss of funds invested.** Results presented include reinvestment of all dividends and other earnings. Please read important disclosures at the end of this presentation.

VIREO

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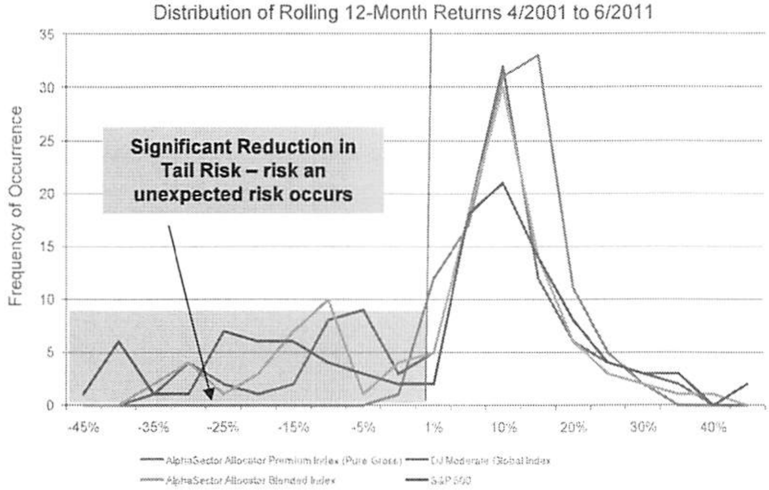
Distribution of annual returns since inception shows the reduction in losses that has been incurred

AlphaSector Allocator Premium Index vs. Dow Jones Moderate Global Index, AlphaSector Allocator Blended Index, and S&P 500

Distribution of Rolling 12-Month Returns 4/2001 to 6/2011



	AlphaSector Allocator Premium Index (Pure Gross)	DJ Moderate Global Index	AlphaSector Allocator Blended Index	S&P 500
Maximum Return	33.84%	39.42%	40.00%	53.62%
Minimum Return	-0.69%	-30.38%	-33.85%	-43.32%
Percent Positive	99%	75%	71%	69%

For Financial Consultant One-on-One Use Only. April 2001 to June 2011. Source: Zephyr StyleAdvisor, F-Squared Investments. Performance results presented herein do not necessarily indicate future performance. **Investment in equity strategies involves substantial risk and has the potential for partial or complete loss of funds invested.** Results presented include reinvestment of all dividends and other earnings. Please read important disclosures at the end of this presentation.

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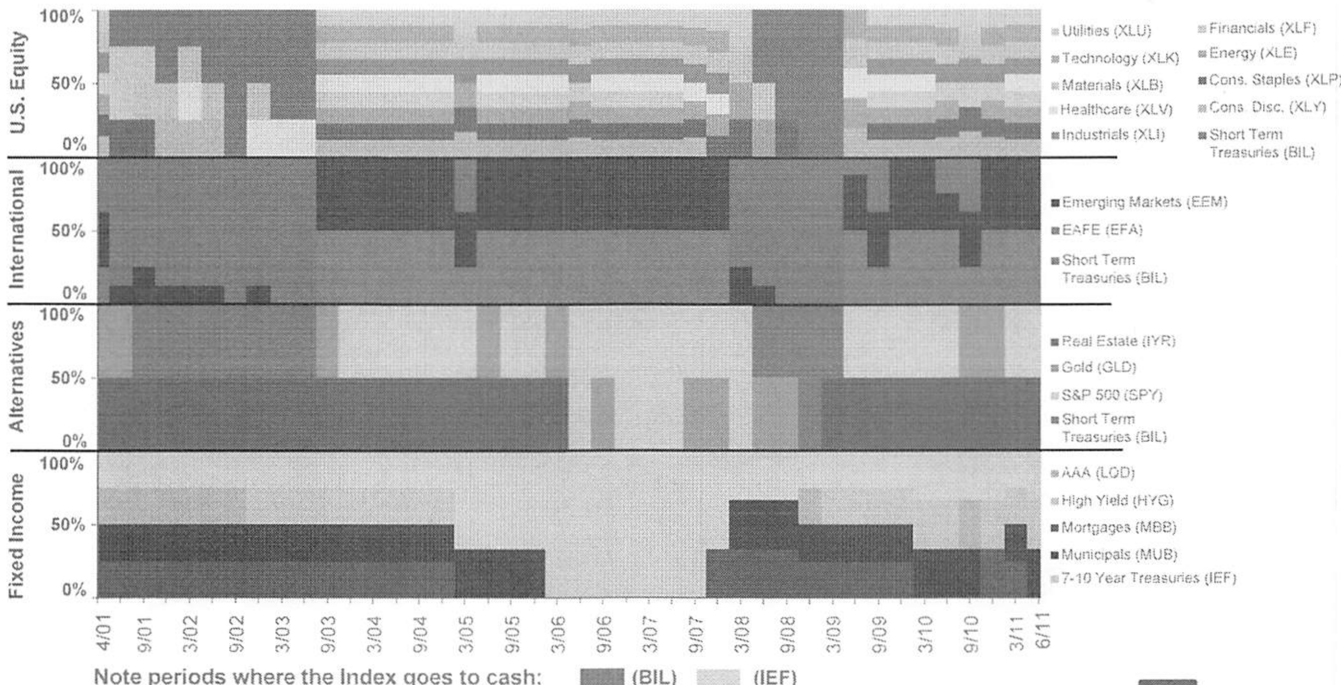
AlphaSector Allocator Premium includes or excludes sectors in the portfolio through disciplined re-allocation and diversification



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Important Disclosures

Navellier Vireo AlphaSector Allocator Premium is a new strategy that attempts to track an index known as the AlphaSector Allocator Premium Index, owned and published by Active Index Solutions, LLC ("AIS"). The AlphaSector Allocator Premium Index is a quantitatively driven index that applies a weekly trading protocol to nine Select Sector SPDRs, a Treasury exchange traded fund, two international ETFs, five fixed income ETFs, two "alternative" ETFs, and a S&P 500 SPDR. There is no guarantee that the advisor will be successful in achieving returns similar to the AlphaSector Allocator Premium Index, and in fact, client returns will be significantly lower than the index returns after actual fees are taken into account, including management fees, brokerage or transaction costs, or other administrative or custodian fees a client may incur.

The "U.S. equity sleeve" referenced in the materials refers to the AlphaSector Premium Index, with the strategy that the AlphaSector Premium Index is based on having an inception date of April 1, 2001. The process of converting the active strategy to an index implies that the returns presented, while not back-tested, reflect theoretical performance an investor would have obtained had it invested in the manner shown and does not represent returns that an investor may have actually attained, as an investor cannot invest directly into an index. Theoretical and hypothetical performance have many inherent limitations. The performance is adjusted to reflect the reinvestment of dividends.

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An exciting, new, defensive ETF portfolio

Vireo AlphaSector Allocator Premium Portfolio

B-080111

AlphaSector Allocator Premium Index provides investors critical benefits rarely seen in long-only strategies

- **Alpha is expressed where it is needed the most**
  - Traditional managers attempt to deliver their highest alpha in strong bull markets
    - Traditional portfolios typically exhibit underperformance or modest outperformance in bear markets
  - AlphaSector Allocator Premium Index has historically delivered consistent alpha in "normal" markets and highest alpha in negative markets
    - However, the portfolio can lag in strong bull markets
- **AlphaSector Allocator Premium has the potential to improve consistency of returns across multiple markets**
- **Live track record for U.S. equity sleeve – stress tested across *two* bear markets**
  - Live assets began tracking the strategies:

    U.S. Equity – April 1, 2001 International – May 1, 2009
    Fixed Income – December1, 2009 Alternatives – December 1, 2009

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Limiting risk in down markets and participating in up markets

AlphaSector Allocator Premium Index is designed to consistently outperform the Dow Jones Moderate Global Index and outperform cash

- Quality downside risk management, especially in weak markets
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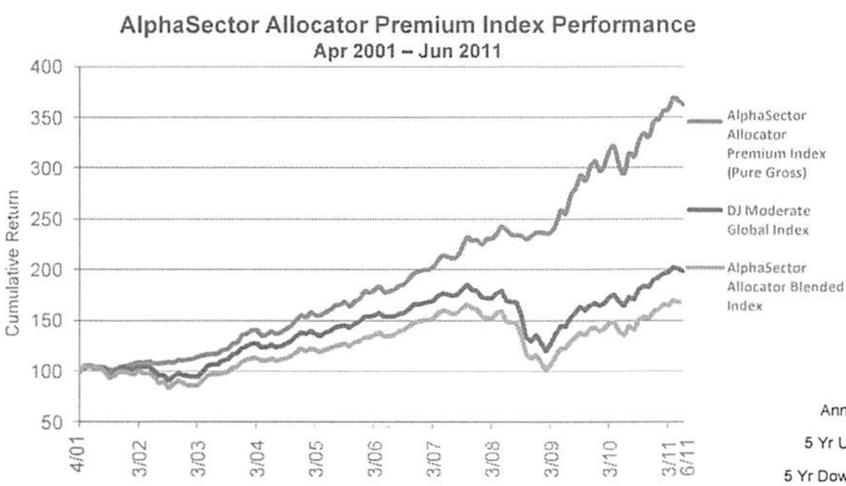

As of Jun 2011

	AlphaSector Allocator Premium Index (Pure Gross)	vs. DJ Moderate Global Index	AlphaSector Allocator Premium Index (Pure Gross)	vs. AlphaSector Allocator Blended Index
Cum. Return	262.4%	99.0%	262.4%	66.6%
1 Yr Return	22.9%	20.8%	22.9%	22.4%
3 Yr Return	14.9%	5.5%	14.9%	3.7%
5 Yr Return	15.2%	5.4%	15.2%	4.3%
Max Drawdown	-8.2%	-35.1%	-8.2%	-39.3%
Std. Dev.	7.3%	10.7%	7.3%	11.4%
Alpha	9.7%	N/A	10.8%	N/A
R-Squared	51%	N/A	52%	N/A
Beta	0.5%	N/A	0.5%	N/A
Ann. Excess Return	6.4%	N/A	8.3%	N/A
5 Yr Up Capture Ratio	100%	N/A	93%	N/A
5 Yr Down Capture Ratio	38%	N/A	33%	N/A

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Distribution of annual returns since inception shows the reduction in losses that has been incurred

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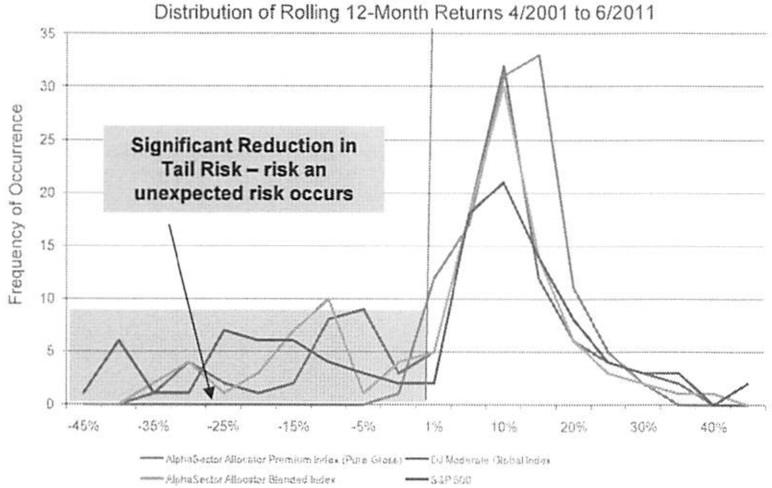

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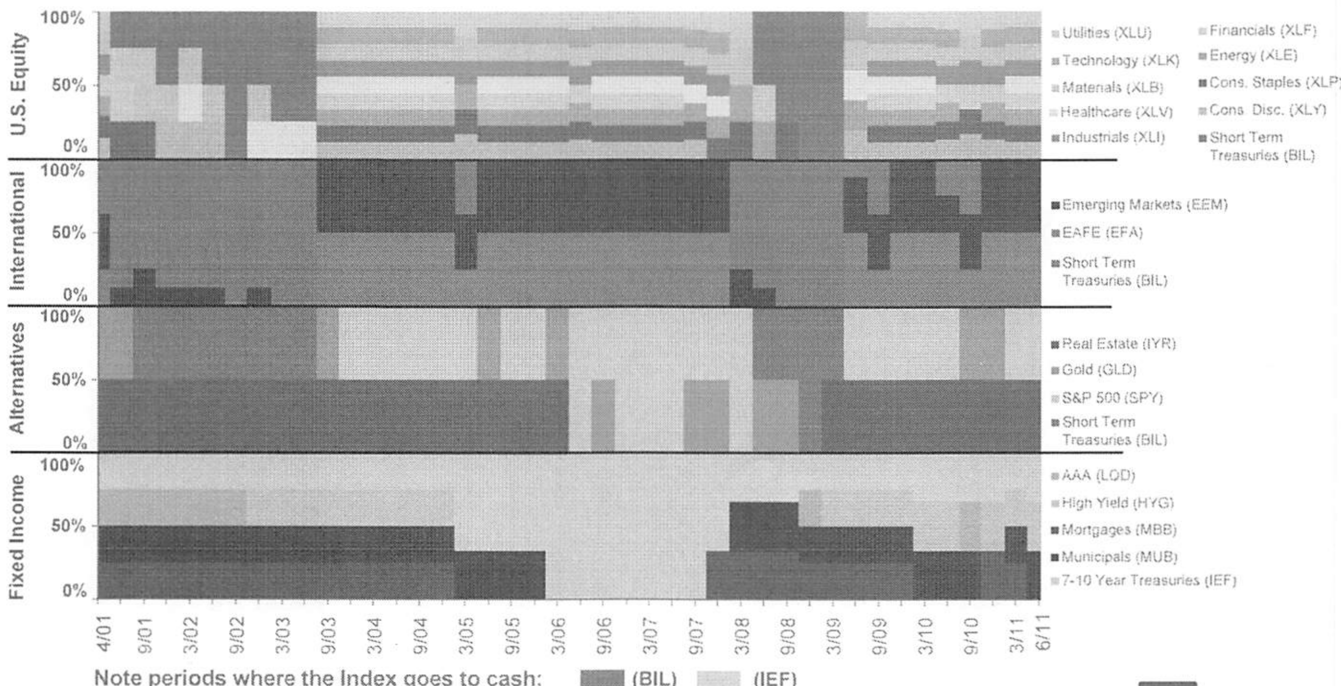

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EXHIBIT 3

EXHIBIT 26

[redacted]

From: John Ranft <John_Ranft@navellier.com>
Sent: Wednesday, November 09, 2011 11:05 PM
To: 'ppurcell@1stallied.com'
Cc: Cheryl Czyz
Subject: Navellier / Vireo Meeting Follow-up
Attachments: Vireo Conf Call transcript_Howard Present080811.pdf; Special Market Update - 2011 08 08.pdf; Special Market Update_Part II - 2011 08 15.pdf; AlphaSector Premium - alphadex 9-2011.pdf; 063011 Vireo AS Premium Sales Presentation_b.pdf; F-Squared Presentation featuring AlphaDEX ETFs v2 10-2011.pdf

Paul,

It was great meeting you today. Thank you very much for your time. I look forward working with you and Tom.

Attached is a variety of items concerning the Vireo portfolios. This should help you better understand the Vireo process and its features and benefits. I have also included a couple of commentaries from F-Squared that give a glimpse into how the portfolio reacts to sudden movements in the market such as what happened back in August.

One F-Squared presentation, "F-Squared Presentation featuring AlphaDEX ETFs v2 10-2011" is for broker/dealer use only.

Please call me with any questions that you might have. My assistant, Cheryl, will be contacting you regarding the seminar invitation.

Thank you for your business and have a great day!

John

John L. Ranft, CIMA
Senior Vice President
Director of Sales and Marketing

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cherylc@navellier.com

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AlphaSector Premium Index provides investors critical benefits rarely seen in long-only strategies

- **High alpha equity solution with low correlation to broader equity markets**
  - Compared to the S&P 500, annual excess return of 10.6% since inception; R-squared of 51%
- **Alpha is expressed where it is needed the most**
  - Traditional managers attempt to deliver their highest alpha in strong bull markets
    - Traditional portfolios typically exhibit underperformance or modest outperformance in bear markets
  - AlphaSector Premium Index has historically delivered consistent alpha in "normal" markets and <u>highest alpha in negative markets</u>
    - However, the portfolio can lag in strong bull markets
- **AlphaSector Premium has the potential to improve consistency of returns across multiple markets**
- **Live track record, stress tested across two bear markets**

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AlphaSector Premium Index Performance
Apr 2001 – Jun 2011

As of Jun 2011

	AlphaSector Premium Index (Pure Gross)	S&P 500
Cumulative Return	275.8%	38.4%
1 Yr Return	36.1%	30.7%
3 Yr Return (Annualized)	15.2%	3.3%
5 Yr Return (Annualized)	15.9%	2.9%
Maximum Drawdown	-13.3%	-51.0%
Standard Deviation	10.6%	15.8%
Annualized Excess Return	10.6%	N/A
Alpha	12.0	N/A
R-Squared	51%	N/A
Beta	0.5	N/A
5 Yr Up Capture Ratio	89%	N/A
5 Yr Down Capture Ratio	45%	N/A

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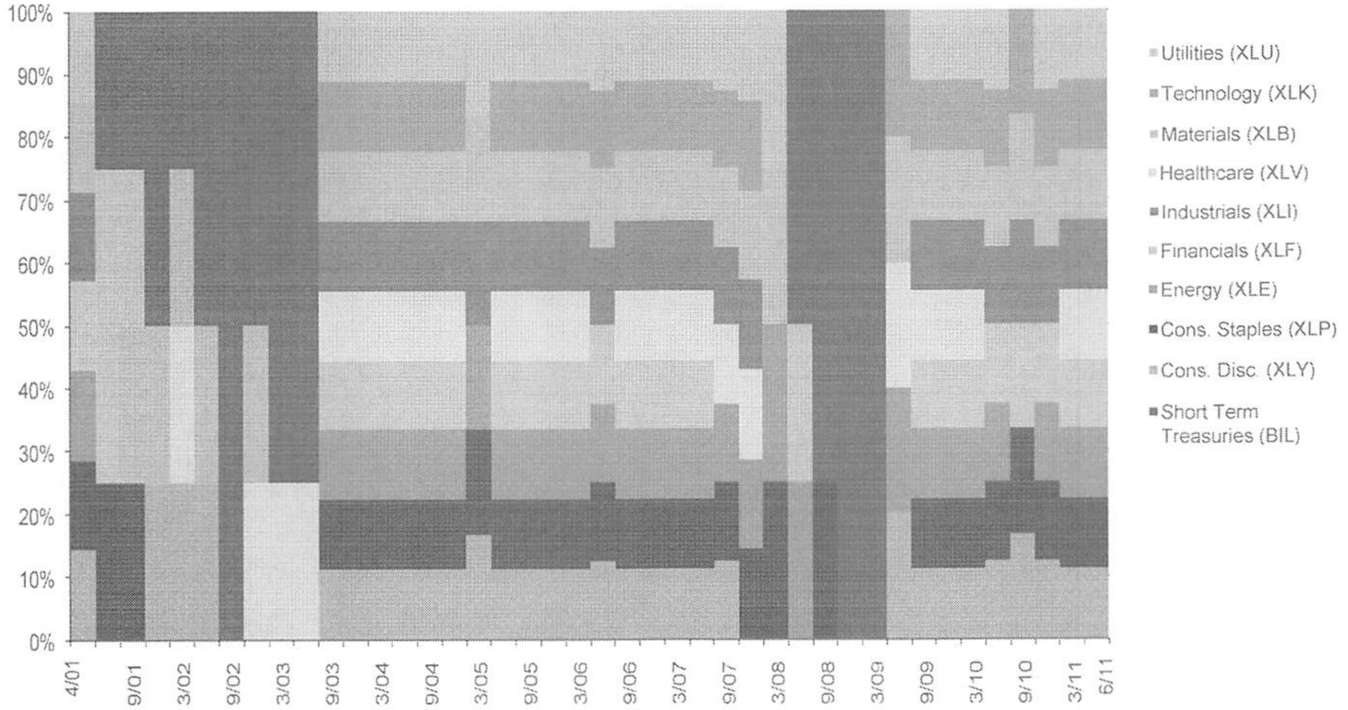

Note periods where the Index goes to cash: (BIL)

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EXHIBIT 4

EXHIBIT
27

[redacted]

From: Peter Nicolas <peter_nicolas@navellier.com>
Sent: Thursday, March 29, 2012 12:01 PM
To: daniel.parilo@wellsfargoadvisors.com
Subject: presentation-strategy description
Attachments: 063011 Vireo Allocator Sales Presentation_b.pdf

Peter Nicolas, CFA
Senior VP Regional Consultant - Eastern Division
Mobile-775-813-3433

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IS-083013

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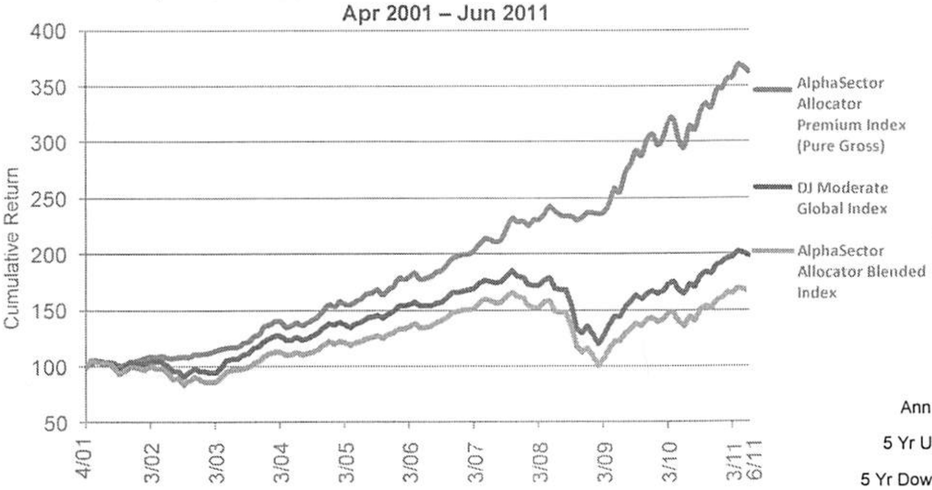

As of Jun 2011

	AlphaSector Allocator Premium Index (Pure Gross)	vs. DJ Moderate Global Index	AlphaSector Allocator Premium Index (Pure Gross)	vs. AlphaSector Allocator Blended Index
Cum. Return	262.4%	99.0%	262.4%	66.6%
1 Yr Return	22.9%	20.8%	22.9%	22.4%
3 Yr Return	14.9%	5.5%	14.9%	3.7%
5 Yr Return	15.2%	5.4%	15.2%	4.3%
Max Drawdown	-8.2%	-35.1%	-8.2%	-39.3%
Std. Dev.	7.3%	10.7%	7.3%	11.4%
Alpha	9.7%	N/A	10.8%	N/A
R-Squared	51%	N/A	52%	N/A
Beta	0.5%	N/A	0.5%	N/A
Ann. Excess Return	6.4%	N/A	8.3%	N/A
5 Yr Up Capture Ratio	100%	N/A	93%	N/A
5 Yr Down Capture Ratio	38%	N/A	33%	N/A

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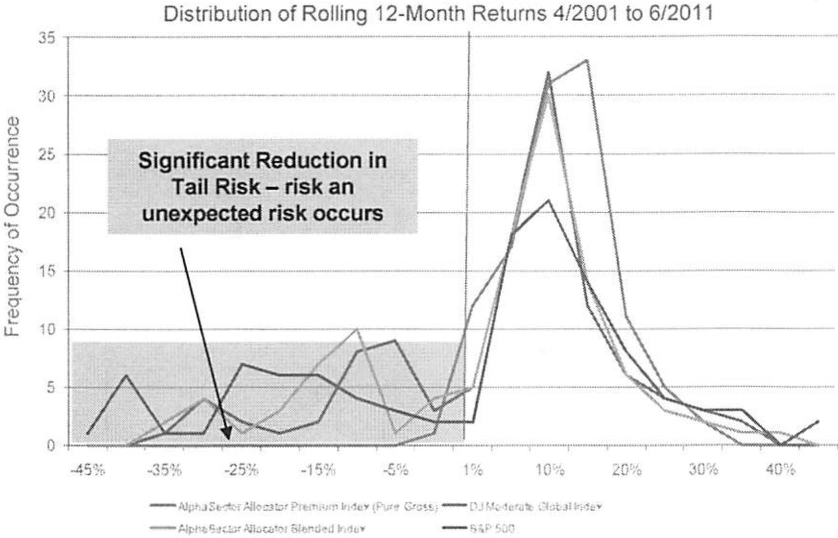
Distribution of annual returns since inception shows the reduction in losses that has been incurred

AlphaSector Allocator Premium Index vs. Dow Jones Moderate Global Index, AlphaSector Allocator Blended Index, and S&P 500

Distribution of Rolling 12-Month Returns 4/2001 to 6/2011



	AlphaSector Allocator Premium Index (Pure Gross)	DJ Moderate Global Index	AlphaSector Allocator Blended Index	S&P 500
Maximum Return	33.84%	39.42%	40.00%	53.62%
Minimum Return	-0.69%	-30.38%	-33.85%	-43.32%
Percent Positive	99%	75%	71%	69%

For Financial Consultant One-on-One Use Only. April 2001 to June 2011. Source: F-Squared Investments, Zephyr StyleAdvisor. Performance results presented herein do not necessarily indicate future performance. **Investment in equity strategies involves substantial risk and has the potential for partial or complete loss of funds invested.** Results presented include reinvestment of all dividends and other earnings. Please read important disclosures at the end of this presentation.

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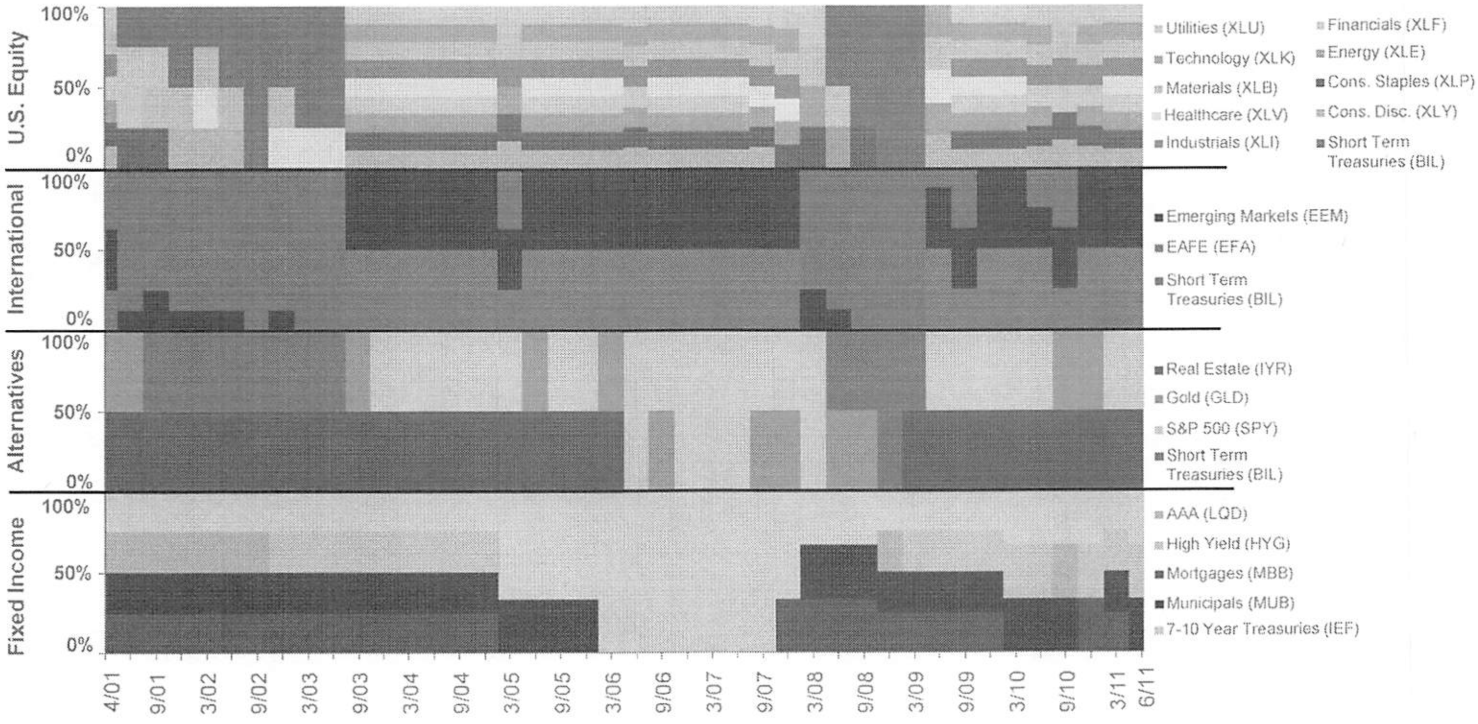
AlphaSector Allocator Premium includes or excludes sectors in the portfolio through disciplined re-allocation and diversification



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Important Disclosures

Vireo AlphaSector Allocator Premium attempts to track an index known as the AlphaSector Allocator Premium Index, owned and published by Active Index Solutions, LLC ("AIS"). The AlphaSector Allocator Premium Index is a quantitatively driven index that applies a weekly trading protocol to the nine Select Sector SPDRs, an exchange traded fund ("ETF") representing 1-3 month Treasuries (ticker BIL), two international ETFs, five fixed income ETFs, two "alternative" ETFs, and a S&P 500 SPDR. There is no guarantee that the advisor will be successful in achieving returns similar to the AlphaSector Allocator Premium Index, and in fact client returns may be significantly lower than the index returns after actual fees are taken into account, including management fees, brokerage or transaction costs, or other administrative or custodian fees a client may incur. One cannot directly invest in an index. Index returns presented represent past performance and are not a guarantee of future results or indicative of any specific investment.

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Navellier does not calculate the statistical information included herein. This material has been prepared solely for informative purposes. F-Squared is the source of all performance data related to the F-Squared AlphaSector Indexes cited in these reports. Although information contained herein is based on sources Navellier believes to be reliable, Navellier does not guarantee its accuracy, and the information may be incomplete or condensed.

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Important Disclosures (cont.)

The Dow Jones Moderate Global Index is a benchmark that takes 60% of the risk of the global securities market. It is a total returns index that is a time-varying weighted average of stocks, bonds, and cash. The index is the efficient allocation of stocks, bonds, and cash in a portfolio whose semideviation is 60% of the annualized 36-month historic semideviation of the Dow Jones Aggressive Portfolio Index. Stocks are represented by the Dow Jones Aggressive Portfolio Index. Bonds are represented by an equal weighting of the following four bond indexes with monthly rebalancing: BarCap Government Bonds Index, BarCap Corporate Bonds Index, BarCap Mortgage-backed Bonds Index, and BarCap Majors (ex U.S.) Bonds Index. Cash is represented by the 91-Day T-Bill Auction Average. The efficient portfolio is updated monthly. Presentation of Index data does not reflect a belief by Navellier that any stock index constitutes an investment alternative to any Navellier equity strategy presented in these materials, or is necessarily comparable to such strategies and an investor cannot invest directly in an index. Among the most important differences between the Indices and Navellier strategies are that the Navellier equity strategies may (1) incur material management fees, (2) concentrate investments in relatively few ETFs, industries, or sectors, (3) have significantly greater trading activity and related costs, and (4) be significantly more or less volatile than the Indices. The secondary benchmark for the composite is a blended benchmark using the following indices: S&P 500 (45%), MSCI World ex U.S. (25%), and Barclays Capital U.S. Aggregate Bond Index (30%). The benchmark is rebalanced daily. The S&P 500 Index measures the performance of the 500 leading companies in leading industries of the U.S. economy, focusing on the large cap segment of the market, with approximately 75% coverage of U.S. equities. The MSCI World ex U.S. Index is a free float-adjusted market capitalization weighted index that is designed to measure the equity market performance of developed markets. As of June 2011, the MSCI World ex U.S. Index consisted of the following 23 developed market country indices: Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Hong Kong, Ireland, Israel, Italy, Japan, the Netherlands, New Zealand, Norway, Portugal, Singapore, Spain, Sweden, Switzerland, and the United Kingdom. MSCI World ex U.S. Index targets 85% of the free float adjusted market capitalization. The Barclays Capital U.S. Aggregate Bond Index is a broad-based benchmark that measures the investment grade, U.S. dollar-denominated, fixed-rate taxable bond market, including Treasuries, government-related and corporate securities, MBS (agency fixed-rate and hybrid ARM passthroughs), ABS, and CMBS.

The S&P 500 Index measures the performance of 500 stocks that are considered to be widely held by Standard & Poors, a division of The McGraw-Hill Companies, Inc., and comprises approximately three-quarters of the total capitalization of companies publicly traded in the United States. The S&P 500 Index is weighted by market value and its performance is thought to be representative of the stock market as a whole. It is reported that over 70% of all U.S. equity funds are tracked by the S&P 500. The index selects its companies based upon their market size, liquidity, and sector. Most of the companies in the index are mid cap or large corporations. This index is composed of 400 industrial, 20 transportation, 40 utility, and 40 financial companies. Many experts consider the S&P 500 one of the most important benchmarks available to judge overall U.S. market performance.

Presentation of Index data does not reflect a belief by Navellier that any stock index constitutes an investment alternative to any Navellier equity strategy presented in these materials, or is necessarily comparable to such strategies and an investor cannot invest directly in an index. Among the most important differences between the Indices and Navellier strategies are that the Navellier equity strategies may (1) incur material management fees, (2) concentrate investments in relatively few ETFs, industries, or sectors, (3) have significantly greater trading activity and related costs, and (4) be significantly more or less volatile than the Indices.

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EXHIBIT 5

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EXHIBIT 28

[redacted]

From: Cheryl Czyz <Cheryl_Czyz@navellier.com>
Sent: Wednesday, June 20, 2012 5:35 PM
To: kevin.norman@wfadvisors.com
Subject: Vireo commentaries
Attachments: Vireo SPECIAL commentary August 2011.pdf; Vireo SPECIAL commentary August 15 2011.pdf

Mr. Norman,

Here are a couple of commentaries from F-Squared Investments regarding last year's signals, etc. that you might find interesting. Sorry to inundate you with information, but don't want to leave any stones unturned.

Thank you.

Cheryl

Cheryl Czyz
Marketing Associate-Central Division

NAVELLIER
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www.vireoinvestments.com

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The SEC suggests that clients compare the accuracy of portfolio statements provided by Navellier & Associates Inc. to statements provided to clients by their custodian

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Confidence Rising

AlphaSector SUPPLEMENTAL
Premium Index INFORMATION

August 15, 2011

A SPECIAL COMMENTARY FROM F-SQUARED INVESTMENTS, INC.

SPECIAL MARKET UPDATE PART II – ALPHASECTOR/US EQUITIES

One week ago F-Squared published a Special Market Update addressing the fast changing market in August, and the implications for the AlphaSector Indices[1]. Two key comments from that Update addressed the forward looking outlook for the markets and the AlphaSector Premium Index:

> "the key analytical question that the AlphaSector models will be evaluating is whether this is a structural change in market dynamics (i.e. a formal correction with the potential to become a bear market), or just a high volatility market event representing nothing more than a buying opportunity"

> "A closer look at the models showed that of the remaining 8 active sectors, all but two have shown EXTENSIVE WEAKENING, and are extremely vulnerable to turning negative in the next week or two."

The first of these two comments has not been fully answered yet, and is discussed further in the "**Is this 2008 or 2010**" section below. The second question, addressing sector stability in the Index, *has been* answered. In the wake of sharp market declines seen in the first five trading days of August, this past week saw continued market weakness coupled with record volatility, and has resulted in further changes to the AlphaSector Premium Index structure.

In addition to the one sector that turned off within the AlphaSector Premium Index one week ago, this past Friday five additional sectors turned negative, and were also removed. With six sectors now removed and only three remaining, the Index and all portfolios tracking the Index will now have a 25% cash allocation.

This dramatic and rapid response by AlphaSector, adapting to the fast moving markets, is literally unprecedented in the ten-year history of the strategy. Prior to this month's moves, the maximum number of sectors that had turned off for the AlphaSector Premium Index over a two week period was three.

ANALYTICAL DYNAMICS IMPACTING ALPHASECTOR

The over-riding market dynamic of the past several weeks was the remarkable increase in volatility. As measured by our proprietary volatility calculation, the average sector had a doubling of volatility in the past 6 weeks. Since our investment engines respond to increasing levels of volatility by shortening the investment horizon and increasing sensitivity to near-term market events, the doubling of volatility is having a tangible impact on our models.

The spike in sector volatility has thus resulted in a sharp shortening of the investment horizon, which has translated, in just two weeks, into a transition of the portfolio to a very defensive profile. In the past two weeks, AlphaSector Premium Index moved from a very bullish stance -- all nine sectors active -- to a 25% cash position.

(As a point of reference, while the current level of sector volatility has increased about 150% year to date, the level of volatility seen is still only about one-half that seen in late 2008.)

PORTFOLIO IMPLICATIONS

While disclosure rules prohibit us from disclosing the sectors that were turned off until 30 days from month end, there are some interesting portfolio characteristics of the resulting portfolio structure that we can share.

With a 25% cash weighting, the portfolio has clearly become more defensive. And while the market from January through July was trending positive and deserved a more bullish portfolio structure (see page one of the prior Special Market Update), some insight into how the Index might respond to rest of this year can be gleaned by looking at characteristics of the current Index design, as would have been seen earlier in 2011:

- If this portfolio had been in place for the full year in 2011, the portfolio would have delivered a beta to the S&P 500 Index of approximately 70%.
- The current portfolio also would have had a 2011 year to date Down Capture Ratio of less than 40%[2]. Thus, the current Index structure would have participated in less than one-half of the decline in the S&P 500 in 2011.
- Remarkably, the current Index design would have had a 2011 year to date Up Capture Ratio of more than 100%.[2]

IS THIS 2008 OR 2010?

One of the strengths of the AlphaSector strategies is their ability to adapt to changing markets, especially once most of the sectors move to "inflection points", or positions where they are actively transitioning from positive to negative or back again. Over the past several years there have been two concentrated periods of time where the S&P 500 experienced a decline of 10% or more. In both cases AlphaSector moved to a very defensive position in the wake of the declines. However, in one of the two cases the markets reversed themselves and began an extended rally. In the other case, the decline signaled the beginning of a prolonged bear market.

Thus the question for investors is whether August 2011 will prove to look more like 2010 or 2008?

In the second quarter of 2010 the S&P 500 dropped over 11%. The AlphaSector Premium Index moved sharply defensive, shifting from nine active sectors in April, 2010, to just two active sectors by the first week of July (50% cash). July 2010 proved pivotal, as the market rebounded with a 7% gain for the month and set the stage for a 15% gain for the calendar year. Fortunately, the AlphaSector Premium Index was able to respond in kind. The Index added back three sectors in July, gained 10.1% for the month (310bp ahead of the S&P 500), and 17.7% for CY 2010.

During the week of October 5, 2008, the S&P 500 dropped a stunning 18.1%. AlphaSector Premium Index had previously moved to a 75% cash weighting, and the events of early October pushed AlphaSector to a 100% cash position. 2008 and 2009 proved to be one of the worst Bear markets of the past century, and the S&P 500 proceeded to drop another 14.7% from October 2008 to March 2009. In this case, AlphaSector Premium Index maintained the 100% cash position until the first week of April, 2009, protecting investors during the Bear market and still setting the stage for a 580bp outperformance versus the S&P 500 during 2009.

Fortunately, the current environment does not appear as dire as what was faced in 2008, and hopefully the market will rebound by year end. Regardless, the AlphaSector models are designed to adapt and respond to changing market conditions, and will hopefully demonstrate the same strengths for investors as shown in both 2008 and 2010.

The F-Squared Investment Committee

Disclosure for Performance Data

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Investment products that may be based on AlphaSector Indexes are not sponsored by Active Index Solutions, LLC, and neither F-Squared Investments, Inc. nor Active Index Solutions, LLC makes any representation regarding the advisability of investing in them. One cannot invest directly in an index.

The Indexes are based on active strategies, with the strategy that the AlphaSector Rotation Index and the AlphaSector Premium Index are based on having an inception date of April 1, 2001. The process of converting the active strategy to an index implies that the returns presented, while not backtested, reflect theoretical performance an investor would have obtained had it invested in the manner shown and does not represent returns that an investor actually attained, as investors cannot invest directly in an index. Theoretical and hypothetical performance has many inherent limitations. The performance is adjusted to reflect the reinvestment of dividends. The fee schedule and anticipated expenses are included in the client agreement. F-Squared's fees are available upon request and also may be found in Part II of its Form ADV. Past performance is no guarantee of future results.

The information presented is based upon the performance of an Index as reported by NASDAQ OMX, or Active Index Solutions, LLC. The information is adjusted to reflect the reinvestment of dividends and, except where indicated, all returns are presented gross of fees. No representation or warranty is made as to the reasonableness of the assumptions made or that all assumptions used in achieving the returns have been stated or fully considered. Changes in the assumptions may have a material impact on the hypothetical returns presented.

AlphaSector Rotation Index is the exclusive property of F-Squared Investments, Inc. and Active Index Solutions, LLC. Active Index Solutions, LLC has contracted with The NASDAQ OMX Group, Inc. (collectively, with its subsidiaries and affiliates, "NASDAQ OMX") to calculate and maintain the AlphaSector Rotation Index. NASDAQ OMX shall have no liability for any errors or omissions in calculating the AlphaSector Rotation Index.

Returns represent past performance, and are not guarantees of future results or indicative of any specific investment. Past performance is no guarantee of future results.

Sources: Morningstar, NASDAQ OMX, F-Squared Investments. All rights reserved.

[1] This update can be downloaded as a pdf from our website at www.vireoinvestments.com, under the Commentary tab. The update is titled *Special Commentary from F-Squared Investments - Monday, August 8, 2011.*
[2] Up/Down Number Ratio is defined by Morningstar as: Up/Down number ratio is a measure of the number of periods that the investment has positive/negative returns corresponding with positive/negative returns for the benchmark. A larger/smaller ratio is better.

OS Received 03/16/2023

VIREO™
Confidence Rising

AlphaSector™ Premium Index (Equity) 2Q 2011

SUPPLEMENTAL INFORMATION

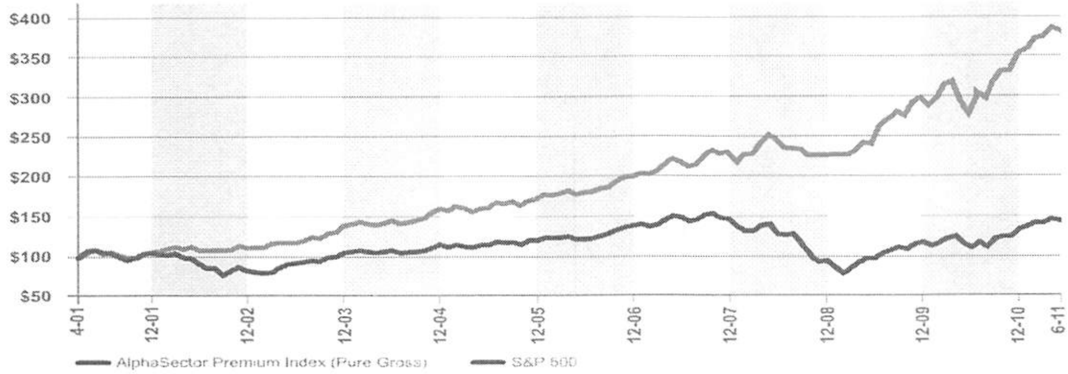
VIREO™ is a unique suite of investment strategies with a single-minded focus: limiting losses during extended market downturns. For today's investor, what you make is not nearly as important as what you keep! Based on the AlphaSector Indexes, owned and published by Active Index Solutions LLC, this strategy, known as *defensive allocation*, also allows Vireo to deliver improved returns in up markets by constantly working from a position of strength (i.e., the portfolio's attempt to avoid losses before making new gains). The Vireo portfolios are designed to deliver attractive risk-adjusted returns through multiple investment markets via diversification and defensive re-allocation, including the use of cash.

AlphaSector Premium Portfolio Key Features

- Invests in the nine Select Sector SPDR ETFs and cash
- Uses NO shorting, leverage, inverse ETFs, or exotic derivative investments
- Focuses primarily on downside risk management, especially in weak markets
- Under extreme market conditions, the portfolio can build and hold substantial cash positions to avoid losses
- Participates in rising markets with the ability to outperform in up markets
- 100% quantitiative process, highly disciplined, weekly calculation

AlphaSector Premium Index Performance

Growth of 100 Dollars from 4/1/2001 - 6/30/2011



Sources: Zephyr StyleADVISOR, F-Squared Investments, Inc. Performance results presented herein do not necessarily indicate future performance. Investment in equity strategies involves substantial risk and has the potential for partial or complete loss of funds invested. Results presented include reinvestment of all dividends and other earnings. Please read important disclosures at the end of this presentation.

Extreme losses can destroy any investment plan.

SUPPLEMENTAL INFORMATION

Loss	Gain Required to Recover	Capital Gap	Years Required for Full Recovery
-10.0%	**11.1%**	**1.1%**	**1.0**
-10.1%	11.2%	1.1%	1.0
-20.0%	25.0%	5.0%	2.0
-30.0%	42.9%	12.9%	3.3
-40.0%	66.7%	26.7%	4.7
-50.0%	100.0%	50.0%	6.3
-51.0%	**104.1%**	**53.1%**	**6.5**

In less than one year (5/18/2008 - 3/7/2009), the S&P 500 lost -51%; full recovery requires a gain of 104%. During the same period, AlphaSector Premium Index only lost -10%; full recovery requires a gain of 11%.

Source: NASDAQ OMX, Morningstar, Active Index Solutions.

Performance Returns

Annualized Returns through 6/30/11	AlphaSector Premium Index (Pure Gross)	S&P 500 Index
2nd Quarter	0.92%	0.10%
Year-to-Date	6.97%	6.02%
Trailing 1 Year	36.09%	30.69%
Trailing 3 Years	15.23%	3.34%
Trailing 5 Years	15.92%	2.94%
Trailing 10 Years	13.66%	2.72%
Since Inception (4/1/01)	13.79%	3.22%
Cumulative Return (4/1/01-6/30/11)	275.78%	38.41%

Return/Risk Analysis

4/1/2001 to 6/30/2011	AlphaSector Premium Index (Pure Gross)	S&P 500 Index
Best Month	10.12%	9.57%
Worst Month	-7.85%	-16.79%
% of Up Month	68%	63%
% of Down Month	32%	37%
Maximum Drawdown (%)	-13.25%	-50.95%

Yearly Returns

	AlphaSector Premium Index (Pure Gross)	S&P 500 Index
2010	17.90%	15.06%
2009	32.31%	26.46%
2008	-1.87%	-37.00%
2007	14.97%	5.49%
2006	16.69%	15.79%
2005	6.86%	4.91%
2004	14.88%	10.88%
2003	24.81%	28.68%
2002	5.33%	-22.10%
2001 (9 months)	5.99%	-0.03%

Comparative Return/Risk Analysis

4/1/2001 to 6/30/2011	AlphaSector Premium Index (Pure Gross)	S&P 500 Index
Alpha[2]	12.02%	0.00%
Beta[2]	0.48%	1.00%
Standard Deviation[1]	10.60%	15.82%
R-Squared[2]	51.41%	100.00%
Up Capture Ratio	85.80%	100.00%
Down Capture Ratio	41.50%	100.00%

Source: Morningstar, F-Squared Investments, Zephyr StyleADVISOR.
[1] Annualized standard deviation since inception
[2] Calculated since inception vs. S&P 500 Index

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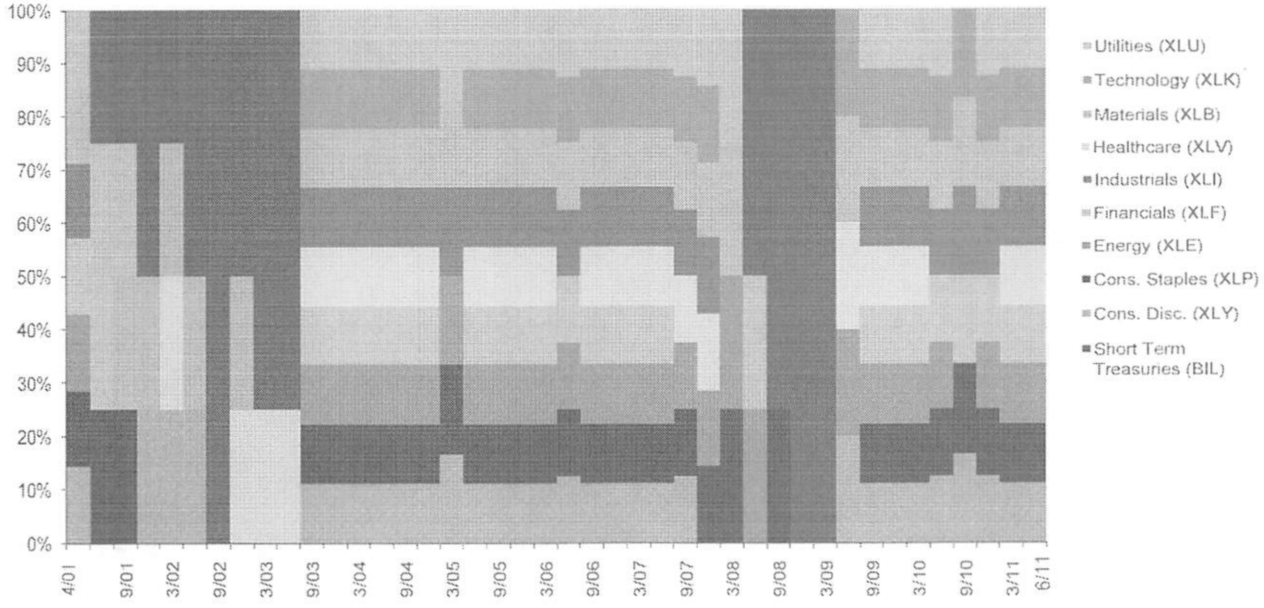
SUPPLEMENTAL INFORMATION

Historical Diversification and Re-allocation

April 1, 2001 - May 31, 2011

The Vireo AlphaSector Premium Index invests in the nine Select Sector ETFs and a cash equivalent, short-term Treasury ETF ("BIL"). Based upon a weekly risk assessment calculation, each sector may be "turned on" or "turned off" and under certain circumstances, the portfolio has the potential to have a 100% allocation to the Treasury ETF (i.e., cash).



Note periods where the Index goes to cash: (BIL)

Source. Morningstar, F-Squared Investments. Copyright 2009 – Patents pending. Allocations presented for each ETF represent the allocation for the majority of time during the stated period and do not necessarily represent the weight for any specific date. Allocations are rounded for presentation purposes.

ETF Universe:

The AlphaSector Premium Portfolio Covers all of the S&P 500 Sectors

U.S. Equity ETFs	
Consumer Discretionary	XLY
Consumer Staples	XLP
Energy	XLE
Financials	XLF
Healthcare	XLV
Industrials	XLI
Materials	XLB
Technology	XLK
Utilities	XLU

Cash Equivalent	
Short-term Treasuries	BIL

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About Vireo

800.887.8671

Navellier & Associates
One East Liberty, Third Floor,
Reno, Nevada 89501

Vireo Portfolio Sponsor
Navellier & Associates

Model Portfolio Management
F-Squared Investments/Active Index Solutions, LLC

Total Product Assets: $35 million

Benchmark: S&P 500 Index

Objective: The AlphaSector Premium Index seeks to limit losses during severe market downturns while fully participating in up markets.

Investment Process: The AlphaSector Premium Index utilizes a highly disciplined, quantitative process to assess forward-looking risk across each of the S&P 500 sectors. Using widely available ETFs, the portfolio will re-allocate between these individual sectors whenever the risk is deemed too great. When conditions warrant, the portfolio can go to cash.

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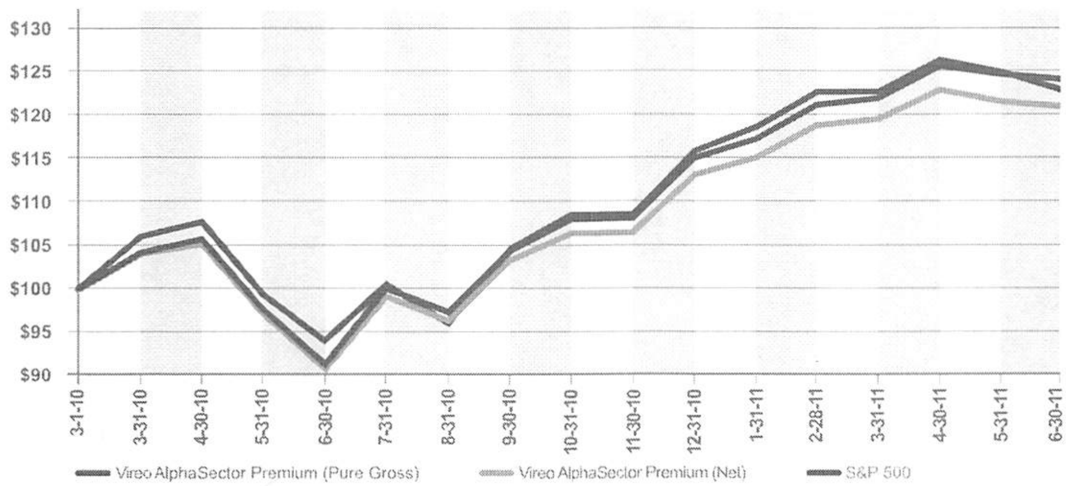
Vireo AlphaSector™ Premium *Performance*
SUPPLEMENTAL INFORMATION

Vireo AlphaSector Premium Performance (Equity)

Wrap Composite Growth of 100 Dollars from 3/1/2010 - 6/30/2011



Source: Zephyr StyleADVISOR.

Performance Returns

Annualized Returns through 6/30/11	Vireo AlphaSector Premium Wrap Composite (Pure Gross)	Net	S&P 500 Index
2nd Quarter	1.78%	1.15%	0.10%
Year-to-Date	7.79%	6.80%	6.02%
Trailing 1 Year	35.90%	33.23%	30.69%
Since Inception (3/1/10)	17.48%	15.28%	16.62%
Cumulative Return (3/1/10-6/30/11)	23.96%	20.88%	22.75%

Yearly Returns

	Vireo AlphaSector Premium Wrap Composite (Pure Gross)	Net	S&P 500 Index
2010 (10 months)	15.00%	13.18%	15.77%

Source: FactSet, Zephyr StyleADVISOR.
(1) Annualized standard deviation since inception
(2) Calculated since inception vs. S&P 500 Index

Return/Risk Analysis

3/1/2010 to 6/30/2011	Vireo AlphaSector Premium Wrap Composite (Pure Gross)	Net	S&P 500 Index
Best Month	9.79%	9.27%	8.92%
Worst Month	-7.79%	-7.82%	-7.99%
% of Up Month	69%	69%	69%
% of Down Month	31%	31%	31%
Maximum Drawdown (%)	-13.67%	-13.72%	-12.80%

Comparative Return/Risk Analysis

3/1/2010 to 6/30/2011	Vireo AlphaSector Premium Wrap Composite (Pure Gross)	S&P 500 Index
Alpha(2)	1.56%	0.00%
Beta(2)	0.95%	1.00%
Standard Deviation(1)	16.08%	16.43%
R-Squared(2)	94.01%	100.00%
Up Capture Ratio	96.40%	100.00%
Down Capture Ratio	90.40%	100.00%

Performance results presented herein do not necessarily indicate future performance. Investment in equity strategies involves substantial risk and has the potential for partial or complete loss of funds invested. Results presented include reinvestment of all dividends and other earnings. Please read important disclosures at the end of this presentation.

2Q 2011

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AlphaSector 2Q
Premium 2011

VIREO ALPHASECTOR PREMIUM WRAP COMPOSITE
Reporting Currency U.S. Dollar | June 30, 2011

Year	Firm Assets ($M)	Composite Assets ($M)	Percentage of Firm Assets	Number of Accounts	Composite Pure Gross Return (%)	Composite Net Return (%)	S&P 500 Index Return (%)	Composite Dispersion (%)
2010[1]	2,365	3	<1%	21	15.00	13.18	15.77	N/A[2]

[1]*Performance calculations for the period ended December 31, 2010 only includes 10 months of history.*
[2]*N/A information is not statistically meaningful due to an insufficient number of portfolios in the composite for the entire year.*

1. Compliance Statement – Navellier & Associates, Inc. claims compliance with the Global Investment Performance Standards (GIPS®) and has prepared and presented this report in compliance with GIPS standards. Navellier & Associates, Inc. has been independently verified for the periods January 1, 1995 through December 31, 2010 by Ashland Partners & Company LLP. A copy of the verification report is available upon request. Verification assesses whether (1) the firm has complied with all the composite construction requirements of the GIPS standards on a firm-wide basis and (2) the firm's policies and procedures are designed to calculate and present performance in compliance with the GIPS standards. Verification does not ensure the accuracy of any specific composite presentation.

2. Definition of Firm - Navellier & Associates, Inc. is a registered investment adviser established in 1987. Navellier & Associates, Inc. manages a variety of equity assets for primarily U.S. and Canadian institutional and retail clients.

3. Composite Description - The Vireo AlphaSector Premium Wrap Composite includes all discretionary Vireo AlphaSector Premium equity accounts that are charged a wrap fee and are managed with similar objectives for a full month, including those accounts no longer with the firm. The strategy attempts to track an index known as the AlphaSector Premium Index and Navellier & Associates, Inc. pays a licensing fee to F-Squared Investments, Inc. to provide a model of the index. The index is quantitatively driven and applies a weekly trading protocol to nine Select Sector SPDRs and an exchange traded fund (ETF) representing 1-3 month Treasuries. The index has the potential to be invested in any combination of the nine SPDRs including all nine at the same time, a combination of sector SPDRs and the Treasury ETF, or can be 100% invested in the Treasury ETF. There is no guarantee that Navellier will achieve returns similar to the index, and in fact the strategy's returns may vary from the index due to the timing of trades and after fees are taken into account, including management fees, brokerage or transactions costs, or other administrative or custodian fees. Performance is calculated on a "time-weighted" and "asset-weighted" basis. Performance figures that are net of fees take into account advisory fees and any brokerage fees or commissions that have been deducted from the account. "Pure" gross-of-fees returns do not reflect the deduction of any trading costs, fees, or expenses, and are presented only as supplemental information. Therefore, actual returns will be reduced by advisory and other expenses incurred. Performance results include the reinvestment of any dividends. The composite was created March 1, 2010. As of April 2011, the Navellier Vireo AlphaSector Premium Wrap Composite has been renamed the Vireo AlphaSector Premium Wrap Composite. Valuations and returns are computed and stated in U.S. Dollars. Portfolio valuation sources are IDC, Factset, and Thompson. Performance is calculated using the "Modified Dietz Method." Policies for valuing portfolios, calculating performance, and preparing compliant presentations are available upon request.

4. Management Fees - The management fee schedule for accounts ranges from 75 to 100 basis points, depending on account size and brokerage selected. Some incentive fee, fixed fee, and fulcrum fee accounts may be included. Fees are negotiable, and not all accounts included in the composite are charged the same rate. Bundled fee accounts make up 100% of the composite for all periods shown. Fee schedules are provided by independent sponsors and are available upon request from the respective sponsor. The bundled fees include custody, trading expenses, and other expenses associated with the management of the account. The client is referred to the firm's Form ADV Part II for a full disclosure of the fee schedule.

5. Composite Dispersion - If applicable, the dispersion of annual returns is measured by the standard deviation across asset-weighted portfolio returns represented within the composite for the full year.

6. Benchmark - The primary benchmark for the composite is the S&P 500 Index. The S&P 500 consists of 500 stocks chosen for market size, liquidity and industry group representation. It is a market value weighted index with each stock's weight in the index proportionate to its market value. The reported returns reflect a total return for each quarter inclusive of dividends. The asset mix of the composite may not be precisely comparable to the presented indices. Presentation of index data does not reflect a belief by the Firm that the S&P 500 Index, or any other index, constitutes an investment alternative to any investment strategy presented in these materials or is necessarily comparable to such strategies.

7. General Disclosure - The three-year annualized standard deviation is not presented because 36 months of history is not available. Actual results may differ from composite results depending upon the size of the account, custodian related costs, the inception date of the account and other factors. ***Performance results presented herein do not necessarily indicate future performance. Investment in equity strategies involves substantial risk and has the potential for partial or complete loss of funds invested. Results presented include reinvestment of all dividends and other earnings.*** The securities identified and described do not represent all of the securities purchased, sold, or recommended for client accounts. The results presented were generated during a period of improving and deteriorating economic conditions in the U.S. and both positive and negative market performance. There can be no assurance that these favorable market conditions will occur again in the future. Navellier has no data regarding actual performance in different economic or market cycles or conditions. It should not be assumed that any securities recommendations made by Navellier in the future will be profitable or equal the performance of securities made in this request. For a list of recommendations made by Navellier & Associates, Inc. for the preceding twelve months or to receive a complete list and description of Navellier & Associates, Inc.'s investment composites, contact Tim Hope at (800) 365-8471, extension 416, or write to Navellier & Associates, Inc., One East Liberty, 3rd Floor, Reno, NV 89501, or e-mail timh@navellier.com.

All Information contained herein is stated as of the date referenced at the top of this page unless indicated otherwise. Past performance is no guarantee of future results.

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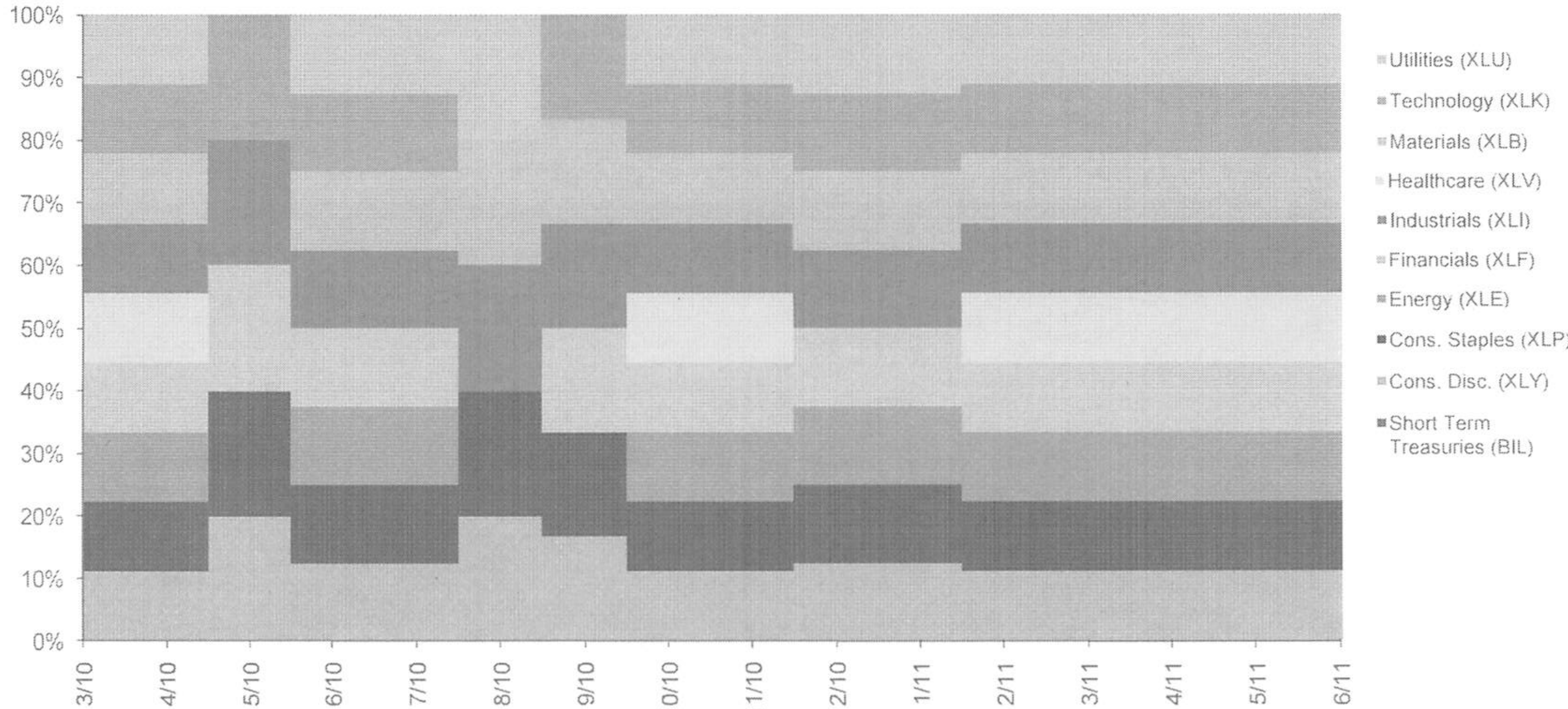
Vireo AlphaSector™ Premium • Supplemental Information

Portfolio Diversification and Re-allocation History March 1, 2010 - May 31, 2011

The Vireo AlphaSector Premium Portfolio invests in the nine Select Sector ETFs and a cash equivalent short-term Treasury ETF ("BIL"). Based on a weekly risk assessment calculation, each sector may be "turned on" or "turned off" and under certain circumstances, the portfolio has the potential to have a 100% allocation to the Treasury ETF (i.e., cash).



Periods where the portfolio goes to cash: (BIL)

Source: Morningstar, F-Squared Investments. Copyright 2009 ~ Patents pending. Allocations presented for each ETF represent the allocation for the majority of time during the stated period and do not necessarily represent the weight for any specific date. Allocations are rounded for presentation purposes. Performance results presented herein do not necessarily indicate future performance. Investment in equity strategies involves substantial risk and has the potential for partial or complete loss of funds invested. Results presented include reinvestment of all dividends and other earnings. Please read important disclosures at the end of this presentation.

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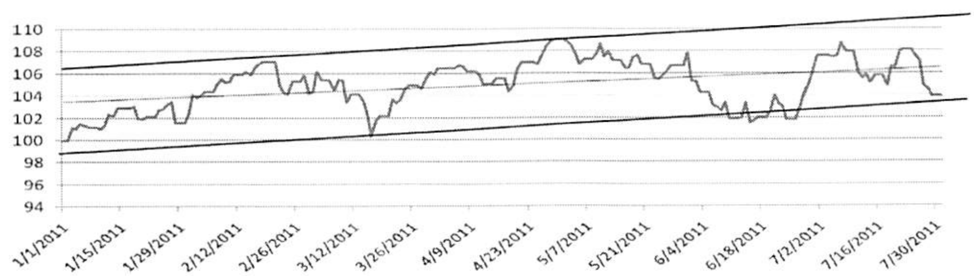
AlphaSector Allocator Premium Index SUPPLEMENTAL INFORMATION

August 8, 2011

A SPECIAL COMMENTARY FROM F-SQUARED INVESTMENTS, INC.

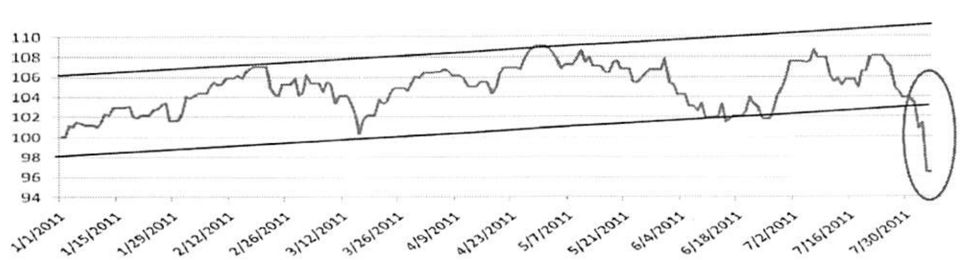
What a difference a week makes. The US stock market had been grinding its way upwards throughout the majority of the year. Figure 1 below shows the market's move from January through the end of July, with the positive trend line provided. While there clearly were market gyrations, a key aspect of the market through July 31 was that when the S&P 500 declined, the lows were higher than the prior lows, and on the rallies, the highs were higher than the prior highs. From most perspectives, this return stream would characterize a healthy market.

FIGURE 1: S&P 500 Total Return, 1/1/2011 – 7/31/2011



August has proven to represent a different dynamic. As of August 5, 2011, the S&P 500 had fallen -10.4% for the prior month, but 69% of that decline occurred in this last week. In fact, the S&P 500 is down -10.2% for the prior 3 months, which is virtually identical to the prior one month period. Thus virtually all of the decline in the broader US markets for both the trailing 30 days and 90 days has occurred in the last 5 trading days. This can be seen clearly in Figure 2 below.

FIGURE 2: S&P 500 Total Return, 1/1/2011 – 8/5/2011



SUPPLEMENTAL INFORMATION

Therefore, from the perspective of the AlphaSector Allocator Premium models, much of the key data reflecting the current state of the market is actually just one week old. And the key analytical question that the AlphaSector models will be evaluating is whether this is a structural change in market dynamics (i.e., a formal correction with the potential to become a bear market), or just a high volatility market event representing nothing more than a buying opportunity.

This Special Market Update will therefore start with a brief "executive summary" of current portfolio dynamics, and is then organized into the following sections to address this issue, and set expectations on future activity: Market Backdrop; Historical Context; Implications on the AlphaSector Models.

BRIEF SUMMARY OF ALPHASECTOR ALLOCATOR PREMIUM INDEX PORTFOLIO DYNAMICS

The US markets have seen a dramatic performance decline over the past few weeks, with a loss over the past week of -7.2%, and -9.0% since 7/1/11. The AlphaSector Allocator Premium Index has declined significantly less than the S&P over the past several weeks.

- AlphaSector Allocator Premium Index is outperforming the S&P 500 by 1.85% YTD, by 1.58% for the week and 2.75% since 7/1/11.

While the AlphaSector Allocator Index had all equity sectors active for most of the year, one of the sectors turned off this weekend. A closer look at the models showed that of the remaining equity sectors, all but two have shown EXTENSIVE WEAKENING, and are extremely vulnerable to turning negative in the next week or two. In the bond sleeve, the bullish position in High Yield could be threatened by continued weakness in risky assets.

- Unless conditions change dramatically, 6 of the US domestic equity sectors are vulnerable to turning negative. If all 6 of the vulnerable sectors turn negative, it would result in a significant cash position.
- The level and extent of weakening seen in the sector evaluations by the AlphaSector Allocator models over the past few weeks represent one of the most dramatic deteriorations in sector strength in the history of the model.

MARKET BACKDROP

While performance dynamics, such as shown on the prior page, are critical, at the heart of the AlphaSector Allocator engines is a "Dynamic Volatility Window" that adjusts the sensitivity of the models to the current environment. The higher the sector volatility level (based on the proprietary AlphaSector Allocator volatility calculation), the more sensitive the engine is to near-term market events; the lower the sector volatility, the less sensitive the engine is to near-term market moves.

Therefore, some key volatility related data:

- Overall changes in levels of volatility, at the sector level, had been very benign through the first quarter of the year. Average increase in volatility was just 18% through the first quarter, and negative on a year-over-year basis.

- The second quarter of 2011 and the early part of Q3 show a different volatility regime. Average volatility at the US domestic equity sector level increased 83% from March 31, and over 115% year-to-date (YTD). The vast majority of that volatility increase occurred in the last few weeks of July and the first week of August.
- The US equity sector with the lowest increase in volatility YTD is Utilities with a 51% increase.
- The US equity sector with the highest increase in volatility YTD is Energy, with a 225% increase.

Correlation among the US equity sectors is another market component that has an impact on the AlphaSector Allocator models. Specifically, the higher the level of sector correlation, the less value the AlphaSector Allocator decisions will have for the client. Fortunately, correlations remain reasonably low, and dispersion reasonably high:

- Trailing 3 months, spread between best to worst sector returns is 14.2%.
- Trailing 6 months, spread between best to worst sector returns is 20.0%.

Final insight to understanding current market dynamics is sector performance moves. The broader S&P 500 return pattern YTD is shown in Figures 1 and 2. For the sectors, some additional detailed information includes:

- On average, the equal weighted average return of the nine US equity sectors YTD is -3.2%, versus -3.6% for the S&P 500. This data point demonstrates the typical benefit of our equal weighting at the sector level within the US equity sleeve.
- Declines by US equity sectors from the market peaks earlier in the year average a -12.8% decline. However, as mentioned earlier, approximately 70% of the declines occurred in the first week of trading in August.
- The worst performing sector YTD is US Financials, which is down -15.2%.
- The best performing sector YTD is Gold, which is up +19.8%.

HISTORICAL CONTEXT

AlphaSector strategies are designed to provide participation in up markets, and implement aggressive risk controls in bear markets. Decisions are purely quantitative in nature, and made on a weekly basis. The intent is not to employ market timing, but rather to make repeatable decisions about the probability of a sector to lose money on a forward looking basis. Volatility is a key component in defining how sensitive the models are at any given time.

Our models do not use fundamental information, or "guess" the direction of the markets. Rather, we evaluate market results and adapt our positions based on the unbiased market data.

There is a lag in the time between a market move for a sector and when the AlphaSector engine makes a change in sector direction. To put this lag into perspective, a "short" period of loss before a sector would turn off has historically been 4-5 weeks (i.e., Energy in July/August of 2008). While this might appear deliberate, this approach has allowed AlphaSector to avoid the past two bear markets. Further, the models will move aggressively to become defensive once engaged. For example, from May 2010 to the first week of July 2010, the AlphaSector Allocator Premium Index went from nine US equity sectors active to only two active equity sectors.

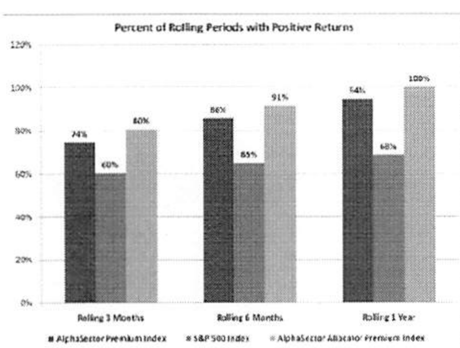
A powerful means of understanding the performance profile of the AlphaSector strategies is to look at returns over a series of rolling time periods. The various AlphaSector strategies were all designed to deliver consistent, repeatable returns, with high predictability of returns in similar categories of market conditions.

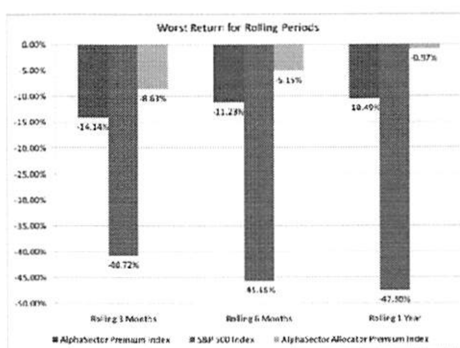
The following will provide key data reflecting performance over rolling time periods:

- AlphaSector Allocator Premium Index has had positive returns 91% of the time for rolling 6 month periods, and 80% for rolling 3 month periods. Substantially better than the S&P 500. (See chart below and to the left.)

- The lag in the AlphaSector Allocator decision implementation means that there is the potential for losses of more than 8% within a rolling 90 day period. However, as the time period gets longer, the maximum historical loss actually declines (i.e., AlphaSector Allocator has historically "set a floor" in maximum loss or drawdown within the first month or two, and then performance tends to improve as the time period expands.) *(See chart below and to the right.)*

- The S&P 500 has had quarterly losses of more than 40%, and as the time period extends the maximum loss **increases**.





IMPLICATIONS FOR THE ALPHASECTOR ALLOCATOR MODELS

- The US markets have seen a dramatic performance decline over the past few weeks, with a loss over the past week of -7.2%, and -9.0% since 7/1/11.

- AlphaSector Allocator Premium has declined significantly less than S&P 500 over the past several weeks.

- AlphaSector Allocator Premium Index is outperforming the S&P 500 by 0.6% YTD, by 1.58% over the last week and by 2.75% since 7/1/11.
- While the AlphaSector Allocator Premium Index had all 9 US equity sectors active for most of the year, one of the nine sectors turned off this weekend.
- A closer look at the models showed that of the remaining active equity sectors, all but two have shown EXTENSIVE WEAKENING, and are extremely vulnerable to turning negative in the next week or two. Weak risky asset price action increases the likelihood that High Yield will be removed from the bond sleeve.
- Unless conditions change dramatically, 6 of the remaining 8 sectors are vulnerable to turning negative. If all 6 of the vulnerable sectors turn negative, it would result in a significant cash position.
- The level and extent of weakening seen in the sector evaluations by the AlphaSector Allocator models over the past few weeks represent one of the most dramatic deterioration in sectors strength in the history of the model.
- If it turns out that 6 or more sectors turn off over the next several weeks (and we build a partial cash weighting), it could easily represent the fastest our models have moved to a cash-based defensive position in the 10+ year history of the Index.

The F-Squared Investment Committee

Disclosure for Performance Data

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The Indexes are based on active strategies, with the strategy that the AlphaSector Rotation Index and the AlphaSector Premium Index are based on having an inception date of April 1, 2001. The process of converting the active strategy to an index implies that the returns presented, while not backtested, reflect theoretical performance an investor would have obtained had it invested in the manner shown and does not represent returns that an

OS Received 03/16/2023

investor actually attained, as investors cannot invest directly in an index. Theoretical and hypothetical performance has many inherent limitations. The performance is adjusted to reflect the reinvestment of dividends. The fee schedule and anticipated expenses are included in the client agreement. F-Squared's fees are available upon request and also may be found in Part II of its Form ADV. Past performance is no guarantee of future results.

The information presented is based upon the performance of an Index as reported by NASDAQ OMX, or Active Index Solutions, LLC. The information is adjusted to reflect the reinvestment of dividends and, except where indicated, all returns are presented gross of fees. No representation or warranty is made as to the reasonableness of the assumptions made or that all assumptions used in achieving the returns have been stated or fully considered. Changes in the assumptions may have a material impact on the hypothetical returns presented.

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Returns represent past performance, and are not guarantees of future results or indicative of any specific investment. Past performance is no guarantee of future results.

Sources: Morningstar, NASDAQ OMX, F-Squared Investments. All rights reserved.

Although information in this presentation has been obtained from and is based upon sources that Navellier believes to be reliable, Navellier does not guarantee its accuracy and it may be incomplete or condensed.

Important Disclosures

The AlphaSector Premium Index and the AlphaSector Allocator Premium Index are owned and published by Active Index Solutions, LLC ("AIS"). The AlphaSector Premium Index is a quantitatively driven index that applies a weekly trading protocol to nine Select Sector SPDRs and an exchange traded fund ("ETF") representing 1-3 month Treasuries (ticker BIL). The index has the potential to be invested in any combination of the nine SPDRs including all nine at the same time, a combination of sector SPDRs and the Treasury ETF, or can be 100% invested in the Treasury ETF. The AlphaSector Allocator Premium Index is a quantitatively driven index that applies a weekly trading protocol to the nine Select Sector SPDRs, a Treasury exchange traded fund, two international ETFs, five fixed income ETFs, two "alternative" ETFs, and a S&P 500 SPDR. There is no guarantee that the advisor will be successful in achieving returns similar to the AlphaSector Premium Index or the AlphaSector Allocator Premium Index, and in fact client returns may be significantly lower than the indices' returns after actual fees are taken into account, including management fees, brokerage or transaction costs, or other administrative or custodian fees a client may incur. One cannot directly invest in an index. Index returns presented represent past performance, and are not a guarantee of future results or indicative of any specific investment.

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The S&P 500 Index measures the performance of 500 stocks that are considered to be widely held by Standard & Poors, a division of The McGraw-Hill Companies, Inc., and comprises approximately three-quarters of the total capitalization of companies publicly traded in the United States. The S&P 500 Index is weighted by market value and its performance is thought to be representative of the stock market as a whole. It is reported that over 70% of all U.S. equity funds are tracked by the S&P 500. The index selects its companies based upon their market size, liquidity, and sector. Most of the companies in the index are mid cap or large corporations. This index is composed of 400 industrial, 20 transportation, 40 utility, and 40 financial companies. Many experts consider the S&P 500 one of the most important benchmarks available to judge overall U.S. market performance. Presentation of Index data does not reflect a belief by Navellier that any stock index constitutes an investment alternative to any Navellier equity strategy presented in these materials, or is necessarily comparable to such strategies and an investor cannot invest directly in an index. Among the most important differences between the Indices and Navellier strategies are that the Navellier equity strategies may (1) incur material management fees, (2) concentrate investments in relatively few ETFs, industries, or sectors, (3) have significantly greater trading activity and related costs, and (4) be significantly more or less volatile than the Indices.

Potential investors should consult with their financial advisor before investing in any Navellier Investment Product. Investment in equity strategies involves substantial risk and has the potential for partial or complete loss of funds invested.

About Vireo

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Model Portfolio Management
F-Squared Investments
Howard Present, *President*

Total Product Assets: $283 million

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AlphaSector Allocator 2Q
Premium 2011

VIREO ALPHASECTOR ALLOCATOR PREMIUM WRAP COMPOSITE

Reporting Currency U.S. Dollar | June 30, 2011

Year	Firm Assets ($M)	Composite Assets ($M)	Percentage of Firm Assets	Number of Accounts	Composite Pure Gross Return (%)	Composite Net Return (%)	DJ Moderate Global Index Return (%)	AlphaSector Allocator Blended Index Return (%)	Composite Dispersion (%)
2010[1]	2,365	73	3%	358	12.53	10.75	13.87	12.59	N/A[2]

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[2]*N/A information is not statistically meaningful due to an insufficient number of portfolios in the composite for the entire year.*

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2. Definition of Firm - Navellier & Associates, Inc. is a registered investment adviser established in 1987. Navellier & Associates, Inc. manages a variety of equity assets for primarily U.S. and Canadian institutional and retail clients.

3. Composite Description - The Vireo AlphaSector Allocator Premium Wrap Composite includes all discretionary Vireo AlphaSector Allocator Premium equity accounts that are charged a wrap fee and are managed with similar objectives for a full month, including those accounts no longer with the firm. The strategy attempts to track an index known as the AlphaSector Allocator Premium Index and Navellier & Associates, Inc. pays a licensing fee to F-Squared Investments, Inc. to provide a model of the index. Thirty-six percent of the index consists of the AlphaSector Premium Index, 30% consists of the AlphaSector Fixed Income Index, 24% consists of the AlphaSector International Index, and 10% consists of the AlphaSector Alternatives Premium Index. The AlphaSector Premium Index is quantitatively driven and applies a weekly trading protocol to nine Select Sector SPDRs and an exchange traded fund (ETF) representing 1-3 month Treasuries. The index has the potential to be invested in any combination of the nine SPDRs including all nine at the same time, a combination of sector SPDRs and the Treasury ETF, or can be 100% invested in the Treasury ETF. The AlphaSector Fixed Income Index is quantitatively driven and applies a weekly trading protocol to four fixed income ETFs along with a 7-year Treasury ETF. The index has the potential to be invested in a combination of the four fixed income ETFs and the Treasury ETF or can be 100% invested in the Treasury ETF. The AlphaSector International Index is quantitatively driven and applies a weekly trading protocol to two international equity ETFs, representing developed international markets and emerging markets, along with a 1-3 month Treasury ETF. The index has the potential to be invested in a combination of the two international ETFs, a combination of the international ETFs and the Treasury ETF, or can be 100% invested in the Treasury ETF. The AlphaSector Alternatives Index is quantitatively driven and applies a weekly trading protocol to two alternative ETFs, representing real estate and gold, and either an S&P 500 ETF or a 1-3 month Treasury ETF. The index has the potential to be invested in a combination of the alternative ETFs or a combination of the alternative ETFs and the S&P 500 ETF or the 1-3 month Treasury ETF if the AlphaSector Premium Index has any exposure to the Treasury ETF. There is no guarantee that Navellier will achieve returns similar to the index, and in fact the strategy's returns may vary from the index due to the timing of trades and after fees are taken into account, including management fees, brokerage or transactions costs, or other administrative or custodian fees. Performance is calculated on a "time-weighted" and "asset-weighted" basis. Performance figures that are net of fees take into account advisory fees and any brokerage fees or commissions that have been deducted from the account. "Pure" gross-of-fees returns do not reflect the deduction of any trading costs, fees, or expenses, and are presented only as supplemental information. Therefore, actual returns will be reduced by advisory and other expenses incurred. Performance results include the reinvestment of any dividends. The composite was created March 1, 2010. As of October 2010, the Navellier Vireo AlphaSector AllWeather Premium Wrap Composite has been renamed the Navellier Vireo AlphaSector Allocator Premium Wrap Composite. As of April 2011, the Navellier Vireo AlphaSector Allocator Premium Wrap Composite has been renamed the Vireo AlphaSector Allocator Premium Wrap Composite. Valuations and returns are computed and stated in U.S. Dollars. Portfolio valuation sources are IDC, Factset, and Thompson. Performance is calculated using the "Modified Dietz Method." Policies for valuing portfolios, calculating performance, and preparing compliant presentations are available upon request.

4. Management Fees - The management fee schedule for accounts ranges from 75 to 100 basis points, depending on account size and brokerage selected. Some incentive fee, fixed fee, and fulcrum fee accounts may be included. Fees are negotiable, and not all accounts included in the composite are charged the same rate. Bundled fee accounts make up 100% of the composite for all periods shown. Fee schedules are provided by independent sponsors and are available upon request from the respective sponsor. The bundled fees include custody, trading expenses, and other expenses associated with the management of the account. The client is referred to the firm's Form ADV Part II for a full disclosure of the fee schedule.

5. Composite Dispersion - If applicable, the dispersion of annual returns is measured by the standard deviation across asset-weighted portfolio returns represented within the composite for the full year.

6. Benchmark - The Dow Jones Moderate Global Index is a benchmark that takes 60% of the risk of the global securities market. It is a total returns index that is a time-varying weighted average of stocks, bonds, and cash. The index is the efficient allocation of stocks, bonds, and cash in a portfolio whose semideviation is 60% of the annualized 36-month historic semideviation of the Dow Jones Aggressive Portfolio Index. Stocks are represented by the Dow Jones Aggressive Portfolio Index. Bonds are represented by an equal weighting of the following four bond indexes with monthly rebalancing: BarCap Government Bonds Index, BarCap Corporate Bonds Index, BarCap Mortgage-backed Bonds Index, and BarCap Majors (ex U.S.) Bonds Index. Cash is represented by the 91-Day T-Bill Auction Average. The efficient portfolio is updated monthly. The secondary benchmark for the composite is a blended benchmark using the following indices: S&P 500 (45%), MSCI World ex U.S. (25%), and Barclays Capital U.S. Aggregate Bond Index (30%). The benchmark is rebalanced daily. The S&P 500 Index measures the performance of the 500 leading companies in leading industries of the U.S. economy, focusing on the large cap segment of the market, with approximately 75% coverage of U.S. equities. The MSCI World ex U.S. Index is a free float-adjusted market capitalization weighted index that is designed to measure the equity market performance of developed markets. As of June 2011, the MSCI World ex U.S. Index consisted of the following 23 developed market country indices: Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Hong Kong, Ireland, Israel, Italy, Japan, the Netherlands, New Zealand, Norway, Portugal, Singapore, Spain, Sweden, Switzerland, and the United Kingdom. MSCI World ex U.S. Index targets 85% of the free float adjusted market capitalization. The Barclays Capital U.S. Aggregate Bond Index is a broad-based benchmark that measures the investment grade, U.S. dollar-denominated, fixed-rate taxable bond market, including Treasuries, government-related and corporate securities, MBS (agency fixed-rate and hybrid ARM passthroughs), ABS, and CMBS. The returns for the indices include the reinvestment of any dividends. The asset mix of the composite may not be precisely comparable to the presented indices. Presentation of index data does not reflect a belief by the Firm that the Dow Jones Moderate Global Index, or any other index, constitutes an investment alternative to any investment strategy presented in these materials or is necessarily comparable to such strategies.

7. General Disclosure - The three-year annualized standard deviation is not presented because 36 months of history is not available. Actual results may differ from composite results depending upon the size of the account, custodian related costs, the inception date of the account and other factors. ***Performance results presented herein do not necessarily indicate future performance. Investment in equity strategies involves substantial risk and has the potential for partial or complete loss of funds invested. Results presented include reinvestment of all dividends and other earnings.*** The securities identified and described do not represent all of the securities purchased, sold, or recommended for client accounts. The results presented were generated during a period of improving and deteriorating economic conditions in the U.S. and both positive and negative market performance. There can be no assurance that these favorable market conditions will occur again in the future. Navellier has no data regarding actual performance in different economic or market cycles or conditions. It should not be assumed that any securities recommendations made by Navellier in the future will be profitable or equal the performance of securities made in this request. For a list of recommendations made by Navellier & Associates, Inc. for the preceding twelve months or to receive a complete list and description of Navellier & Associates, Inc.'s investment composites, contact Tim Hope at (800) 365-8471, extension 416, or write to Navellier & Associates, Inc., One East Liberty, 3rd Floor, Reno, NV 89501, or e-mail timh@navellier.com.

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AlphaSector Premium 2Q 2011

VIREO ALPHASECTOR PREMIUM WRAP COMPOSITE
Reporting Currency U.S. Dollar | June 30, 2011

Year	Firm Assets ($M)	Composite Assets ($M)	Percentage of Firm Assets	Number of Accounts	Composite Pure Gross Return (%)	Composite Net Return (%)	S&P 500 Index Return (%)	Composite Dispersion (%)
2010[1]	2,365	3	<1%	21	15.00	13.18	15.77	N/A[2]

[1]*Performance calculations for the period ended December 31, 2010 only includes 10 months of history.*
[2]*N/A information is not statistically meaningful due to an insufficient number of portfolios in the composite for the entire year.*

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5. Composite Dispersion - If applicable, the dispersion of annual returns is measured by the standard deviation across asset-weighted portfolio returns represented within the composite for the full year.

6. Benchmark - The primary benchmark for the composite is the S&P 500 Index. The S&P 500 consists of 500 stocks chosen for market size, liquidity and industry group representation. It is a market value weighted index with each stock's weight in the index proportionate to its market value. The reported returns reflect a total return for each quarter inclusive of dividends. The asset mix of the composite may not be precisely comparable to the presented indices. Presentation of index data does not reflect a belief by the Firm that the S&P 500 Index, or any other index, constitutes an investment alternative to any investment strategy presented in these materials or is necessarily comparable to such strategies.

7. General Disclosure - The three-year annualized standard deviation is not presented because 36 months of history is not available. Actual results may differ from composite results depending upon the size of the account, custodian related costs, the inception date of the account and other factors. ***Performance results presented herein do not necessarily indicate future performance. Investment in equity strategies involves substantial risk and has the potential for partial or complete loss of funds invested. Results presented include reinvestment of all dividends and other earnings.*** The securities identified and described do not represent all of the securities purchased, sold, or recommended for client accounts. The results presented were generated during a period of improving and deteriorating economic conditions in the U.S. and both positive and negative market performance. There can be no assurance that these favorable market conditions will occur again in the future. Navellier has no data regarding actual performance in different economic or market cycles or conditions. It should not be assumed that any securities recommendations made by Navellier in the future will be profitable or equal the performance of securities made in this request. For a list of recommendations made by Navellier & Associates, Inc. for the preceding twelve months or to receive a complete list and description of Navellier & Associates, Inc.'s investment composites, contact Tim Hope at (800) 365-8471, extension 416, or write to Navellier & Associates, Inc., One East Liberty, 3rd Floor, Reno, NV 89501, or e-mail timh@navellier.com.

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OS Received 03/16/2023

EXHIBIT 6

OS Received 03/16/2023

EXHIBIT
29

[redacted]

From: John Ranft <John_Ranft@navellier.com>
Sent: Wednesday, October 05, 2011 9:15 PM
To: 'pgoll@ladenburg.com'
Cc: Brent Farber
Subject: Navellier Vireo Portfolios - The Portfolios That Go To Cash
Attachments: 063011 Vireo Allocator Sales Presentation_b.pdf; VAllocatorFULL_Slick.pdf; Vireo AlphaDEX 063011slick.pdf; AlphaSector Premium - alphadex 9-2011.pdf; Vireo Conf Call transcript_Howard Present080811.pdf

Hi Paige,

It was good speaking with you today. Thank you for your interest in our products. I am sorry that I could not help you with the covered call portfolio.

As I mentioned, about two years ago Navellier introduced a suite of defensive portfolios that we call Vireo. The Vireo portfolios were designed with the primary goal of protecting assets during a prolonged down market. The **AlphaSector Allocator Portfolio**, our most popular portfolio, is a balanced account that has an equity component (both domestic and foreign), a fixed income component, and an alternative investments component. The portfolio uses a proprietary quantitative process, developed by F-Squared Investments, that identifies those market sectors or asset classes in which it is best to be invested and those in which it is not. As stock market volatility increases, the Vireo process gets more sensitive and the shifting between sectors may increase. But, the real power behind the portfolio comes from its ability to raise cash when conditions warrant. It is entirely possible that the portfolio would raise a substantial amount of cash should conditions deteriorate beyond a certain point. And through this cash position, Vireo is able to protect a portfolio's value and ultimately take advantage of upswings in the market.

We also offer an all domestic equity portfolio (**AlphaSector Premium**), a global portfolio (**AlphaSector Global Premium**) and an international portfolio (**AlphaSector International Premium**). They are each managed in a similar way to the **AlphaSector Allocator Premium Portfolio** and can go to cash if needed. Finally, we recently introduced two brand new portfolios, **AlphaSector AlphaDEX Portfolio** and the **AlphaSector AlphaDEX Allocator** portfolio (an all equity portfolio and a balanced portfolio using the AlphaDEX Sector ETFs from First Trust).

Attached is a presentation from our Vireo partner, F-Squared Investments as well as our own presentation. The presentations explain more about the Vireo process. I have also included the Q2-2011 portfolio fact sheets, as well as a couple of white papers and articles that address the philosophy behind the portfolios.

Thank you again for your interest and please let me know if you have any questions.

John

John L. Ranft, CIMA
Senior Vice President
Director of Sales and Marketing

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Please be advised that the attached materials have <u>not</u> been submitted for compliance approval.
It is the responsibility of the Financial Advisor to submit any materials intended for client use to the proper compliance channels for approval prior to distribution.

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f^2

F–Squared Investments, Inc.

Strategies Tracking the AlphaSector™ Series of Indexes:

AlphaSector Premium Index
Featuring the First Trust AlphaDEX ETF's

Wealth and Advisor

Additional info at www.alphasectoralphadex.com

Investment strategies need to be designed to meet *investor* goals

- Investors' investment goals fall into one of three categories:
  - Wealth Creation
  - Wealth Distribution
    - Retirement income (retail)
    - Annual funding requirements (institutional)
  - Wealth Preservation
- ***HIDDEN TRUTHS BEHIND IMPROVING ODDS TO ACHIEVE INVESTOR GOALS:***
  - AVOID SIGNIFICANT LOSSES
  - CONSISTENCY OF RETURNS
  - REPEATABILITY OF RETURNS

"The #1 rule of making money is not to lose money.
The second rule is to never forget rule #1."

- Warren Buffett

Extreme losses can devastate any investment program

- Severe losses create long-term impairment of portfolios due to "Capital Gap"
  - Reduces future earnings power of the portfolio due to smaller capital base
  - Can add years to the recovery of an investment portfolio

ACTUAL LOSS	GAIN REQUIRED FOR RECOVERY	CAPITAL GAP
-10.0%	11.1%	1.1%
-11.8%	13.4%	1.6%
-20.0%	25.0%	5.0%
-30.0%	42.9%	12.9%
-40.0%	66.7%	26.7%
-50.0%	100.0%	50.0%
-51.0%	104.1%	53.1%
-60.0%	150.0%	90.0%
-70.0%	233.3%	163.3%
-80.0%	400.0%	320.0%

ACTUAL LOSS	YEARS REQUIRED FOR FULL RECOVERY
-10.0%	0.9
-11.8%	1.1
-20.0%	2.0
-30.0%	3.3
-40.0%	4.7
-50.0%	6.3
-51.0%	6.5
-60.0%	8.4
-70.0%	11.0
-80.0%	14.7

AlphaSector Premium Index - Featuring the AlphaDEX ETF's 5/18/2008 – 3/7/2009[1]

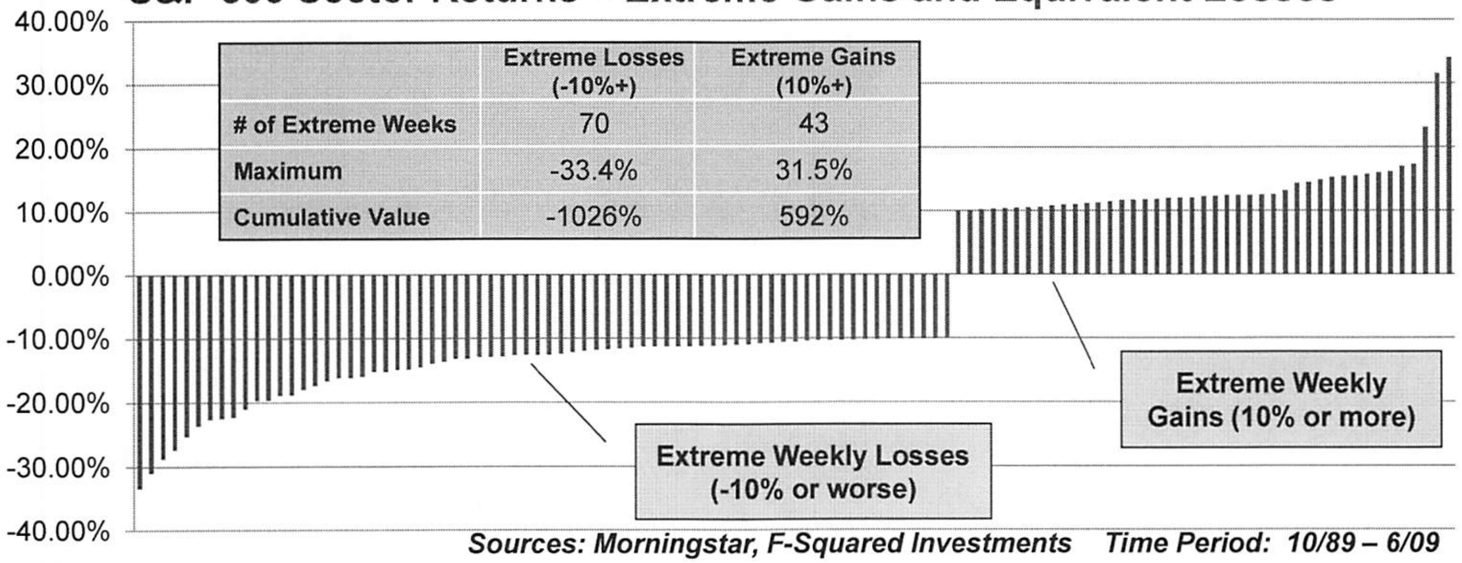
S&P 500 5/18/2008 – 3/7/2009[1]

[1]*Source: NASDAQ OMX, Morningstar, Active Index Solutions*

Investment rationale of AlphaSector is based on statistical advantages of avoiding losses

- Traditional "valuation-based" investment model is based on upside capture
  - Requires unrealistic ability in avoiding extreme downside moves for full market success
- AlphaSector "defensive allocation" model is based on avoiding losses
  - Creates "odds in our favor" investment design
  - Assumes missing majority of extreme upside moves
  - Simultaneously reduces overall investment risk while capturing excess return

S&P 500 Sector Returns – Extreme Gains and Equivalent Losses[1]



	Extreme Losses (-10%+)	Extreme Gains (10%+)
# of Extreme Weeks	70	43
Maximum	-33.4%	31.5%
Cumulative Value	-1026%	592%

Sources: Morningstar, F-Squared Investments ***Time Period: 10/89 – 6/09***

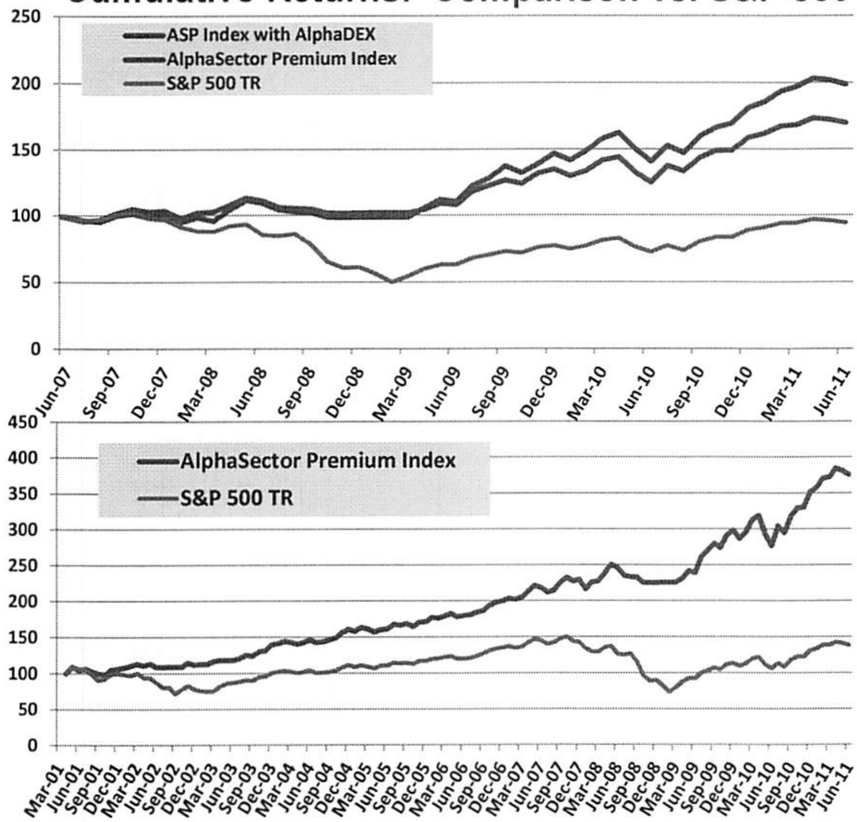
[1] *"Winning by Not Losing – The Hidden Power of Defensive Allocation", F-Squared Investments, 6/09*

F-Squared Investments, Inc.

AlphaSector was designed to meet the real needs of investors: risk controls for down markets, participation in up markets[1,2]

- Powerful but simple story, and uses NO derivatives, leverage, or shorting

Cumulative Returns: Comparison vs. S&P 500



Returns as of June 30, 2011[1]

	ASP Index with AlphaDEX	AlphaSector Premium Index	S&P 500
Cumulative Return	98.5%	69.6%	-5.7%
1 Year Return	41.2%	36.1%	30.7%
3 Yr Return (Annualized)	22.0%	15.2%	3.3%
Standard Deviation	15.5%	13.5%	19.4
Annual Excess Return	19.7%	15.2%	N/A
R-Squared	54.3%	52.0%	N/A
Maximum Drawdown	-13.4%	-13.4%	-51.0%
Up Capture Ratio	111.3%	89.8%	N/A
Down Capture Ratio	44.2%	38.4%	N/A

[1]AlphaDEX Index Returns and AlphaSector Premium Index returns June, 2007– June, 2011
[2]Source: NASDQ OMX, Morningstar, Active Index Solutions

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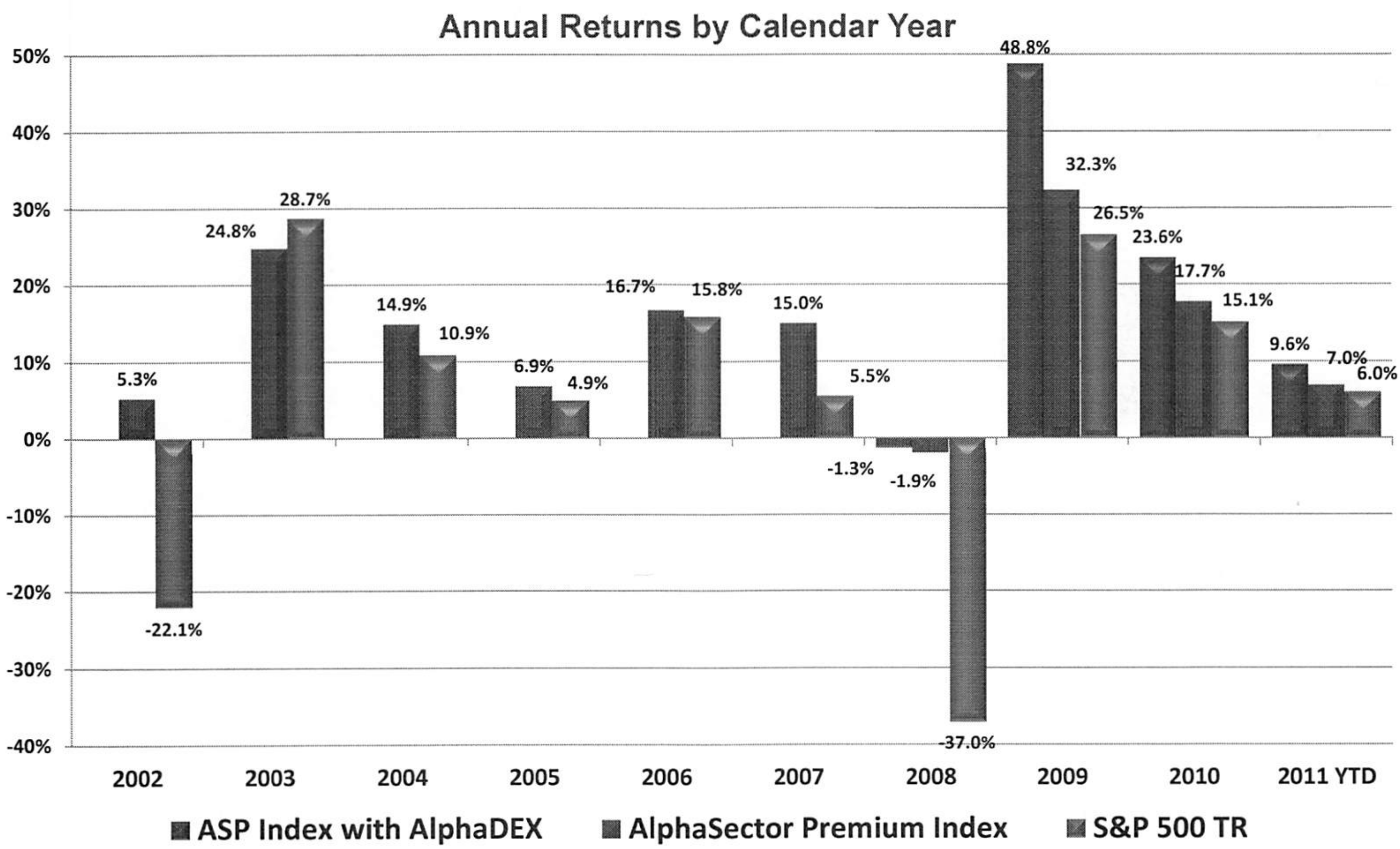
AlphaSector Indexes have delivered remarkably consistent returns across multiple market cycles[1]



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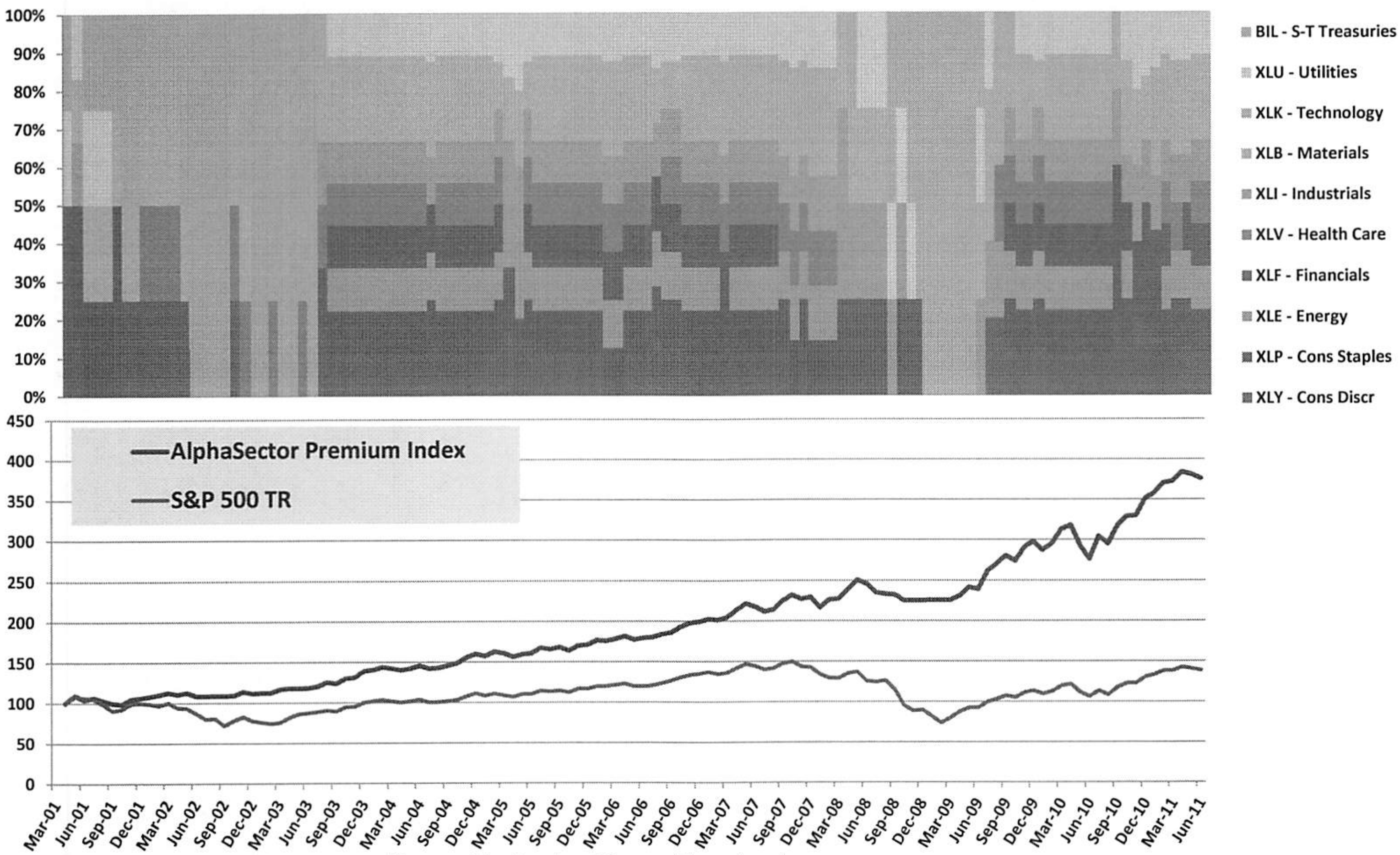
AlphaSector Premium Index – Index construction methodology featuring AlphaDEX ETF's

- Investments include:
  - 9 First Trust AlphaDEX exchange traded funds (ETFs) reflecting the primary sectors of the S&P 500
  - Short-term Treasuries ETF (only used in Bear Markets)

FXR	FXU	FXO	FXL	FXD	FXN	FXH	FXZ	FXG	BIL
Industrials	Utilities	Financials	Technology	Cons Discr	Energy	Health Care	Materials	Cons Staples	S-T Treas

- Index is re-evaluated weekly
- Sector ETFs are traded using a binary model – either IN or OUT of the portfolio
  - Sectors forecasted for positive return are left in; sectors forecasted to lose money are removed entirely
  - Decisions are based on a proprietary quantitative model, developed over 9 year period
- All sectors remaining IN the index are always equal weighted at the time of rebalancing
  - There is a maximum cap of 25% for any sector ETF at time of rebalance
- When 6 or more sectors are removed, signals a Bear Market
  - Begin to build "cash" position using BIL ETF
    - 3 sectors IN = 25% cash; 2 sectors IN = 50% cash; 1 sector IN = 75% cash
  - Can go to 100% in S-T Treasuries if all 9 sectors are eliminated

AlphaSector Indexes periodically decide to either eliminate or include a sector from the Index (binary option)[1]



[1]April 2001– June 2011 [2]Source: Morningstar, F-Squared Investments

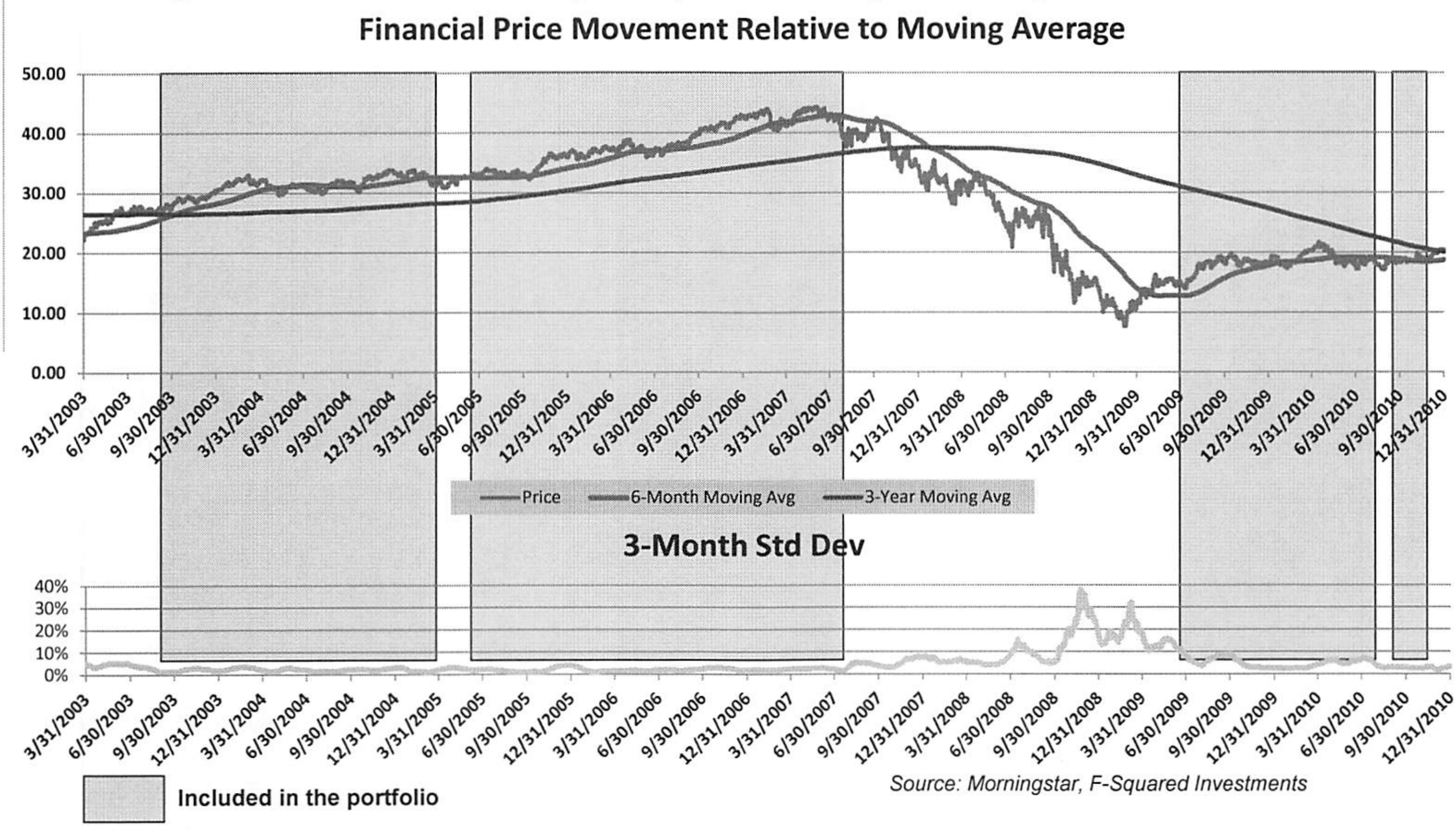
F-Squared Investments, Inc.

AlphaSector Strategy – Model description

- Model objective
  - Makes a "probabilistic" determination of risk of loss for each sector-based ETF
  - Does not use valuation metrics, and does not determine relative high or low valuations
- Key inputs to the Model
  - **Historical price returns for each ETF**
    - Used to generate rolling moving averages for each sector-based ETF
  - **Volatility**
    - Comparison of near term volatility to historical volatility allows a statistical adjustment to eliminate near term "market noise"
  - **Changing levels of volatility**
    - Increasing levels of volatility results in the window size for the rolling moving averages to compress, increasing sensitivity to near market results
    - Decreasing volatility levels expands the window size, increasing stability
- Output from the Model
  - Determination of forecasted performance relative to cash returns (binary decision)
    - Results in a sector either included or removed from the portfolio

AlphaSector Strategy – Financial ETF (XLF) showing price returns, rolling moving averages, and volatility

The example shown below is a conceptual example of how different moving average windows and volatility can provide insight into AlphaSector decisions



Source: Morningstar, F-Squared Investments

F-Squared Investments, Inc.

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About F-Squared Investments

- SEC registered investment management firm
  - Over $3.9 billion in assets under management or advisement
  - Headquartered in Newton, MA
- Founded with the mission of redefining how investment solutions can be reliably delivered to investors
  - The starting point of every investment strategy, process, and product is the client
  - Investment strategies are designed to meet the clients' needs, not to generate sales
  - Loss avoidance, downside risk management, and repeatability of returns are keys to unlocking real wealth, and thus our aggressive focus
- Pioneered an innovative business model that delivers several benefits not previously seen together in the investments industry:
  - Industry leading transparency of process and holdings
  - Virtually unlimited investment options
    - AlphaSector suite of investment strategies
    - Custom Replication investment solutions
  - Low cost customization, short delivery cycles, and private label options
  - Low cost manufacturer for active investment solutions

All information in this presentation is the property of F-Squared Investments, Inc. and is strictly confidential. Visit our websites at www.f-squaredinvestments.com or www.alphasectoralphadex.com.

IMPORTANT INFORMATION:

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The Indexes are based on active strategies, with the strategy that the AlphaSector Rotation Index and the AlphaSector Premium Index are based on having an inception date of April 1, 2001. The process of converting the active strategy to an index implies that the returns presented, while not backtested, reflect theoretical performance an investor would have obtained had it invested in the manner shown and does not represent returns that an investor may have actually attained as an investor cannot invest directly into an index. Theoretical and hypothetical performance has many inherent limitations. The performance is adjusted to reflect the reinvestment of dividends. The fee schedule are included in the client agreement. F-Squared's fees are available upon request and also found in Part II of its Form ADV. Past performance is no guarantee of future results.

AlphaSector Rotation Index is the exclusive property of F-Squared Investments, Inc. and AIS. AIS has contracted with The NASDAQ OMX Group, Inc. (collectively, with its subsidiaries and affiliates, "NASDAQ OMX") to calculate and maintain the AlphaSector Rotation Index. NASDAQ OMX shall have no liability for any errors or omissions in calculating the AlphaSector Rotation Index.

AlphaSector Premium Index is the exclusive property of F-Squared Investments, Inc. and AIS. AIS calculates and publishes the value of the index on a monthly basis. Sources: Morningstar Direct. Although AlphaSector Indexes do not short securities nor utilize leverage or derivatives, the ETFs that AlphaSector tracks may make use of such financial instruments or strategies.

VIREO™
Confidence Rising

AlphaSector Allocator Premium Index (Balanced)

2Q 2011

SUPPLEMENTAL INFORMATION

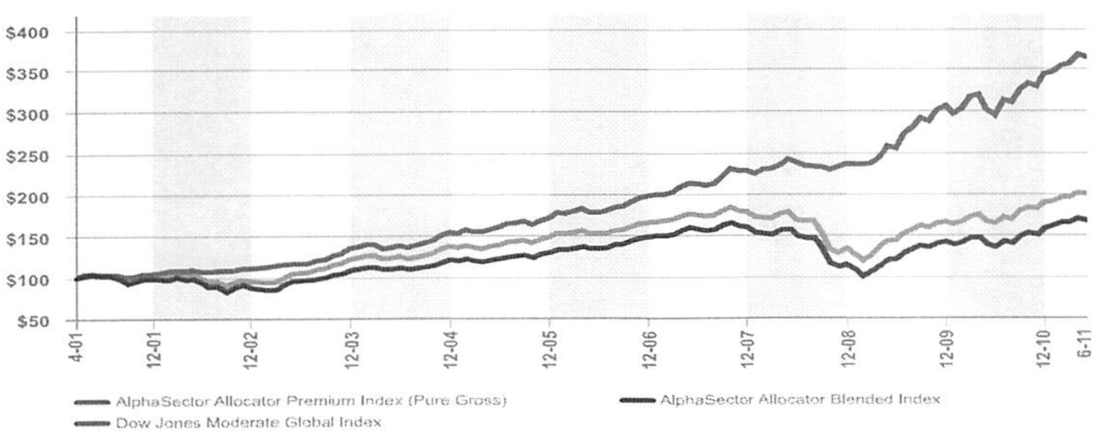
VIREO™ is a unique suite of investment strategies with a single-minded focus: limiting losses during extended market downturns. For today's investor, what you make is not nearly as important as what you keep! Based on the AlphaSector Indexes, owned and published by Active Index Solutions LLC, this strategy, known as *defensive allocation*, also allows Vireo to deliver improved returns in up markets by constantly working from a position of strength (i.e., the portfolio's attempt to avoid losses before making new gains). The Vireo portfolios are designed to deliver attractive risk-adjusted returns through multiple investment markets via diversification and defensive re-allocation, including the use of cash.

AlphaSector Allocator Premium Portfolio Key Features

- Invests in all key equity sectors and major asset classes, including bonds, real estate, gold, foreign markets, and cash
- Utilizes only simple, readily available ETFs (iShares® and Select Sector SPDRs®) and cash
- Uses NO shorting, leverage, inverse ETFs, or exotic derivative investments
- Focuses primarily on downside risk management, especially in weak markets
- Under extreme market conditions, the portfolio can build and hold substantial cash positions to avoid losses
- Participates in rising markets with a proven ability to outperform in up markets
- 100% quantitiative process, highly disciplined, weekly calculation

AlphaSector Allocator Premium Index Performance

Growth of 100 Dollars from 4/1/2001 - 6/30/2011



Sources: Zephyr StyleADVISOR, F-Squared Investments, Inc. Performance results presented herein do not necessarily indicate future performance. Investment in equity strategies involves substantial risk and has the potential for partial or complete loss of funds invested. Results presented include reinvestment of all dividends and other earnings. Please read important disclosures at the end of this presentation.

Extreme losses can destroy any investment plan.

SUPPLEMENTAL INFORMATION

Loss	Gain Required to Recover	Capital Gap	Years Required for Full Recovery
-3.1%	**3.2%**	**0.1%**	**0.3**
-10.0%	11.1%	1.1%	1.0
-20.0%	25.0%	5.0%	2.0
-30.0%	42.9%	12.9%	3.3
-40.0%	66.7%	26.7%	4.7
-50.0%	100.0%	50.0%	6.3
-51.0%	**104.1%**	**53.1%**	**6.5**

In less than one year (5/18/2008 - 3/7/2009), the S&P 500 lost -51%; full recovery requires a gain of 104%. During the same period, AlphaSector Allocator Premium Index only lost -3%; full recovery requires a gain of only 3%.

Source: NASDAQ OMX, Morningstar, Active Index Solutions.

Performance Returns

Annualized Returns through 6/30/11	AlphaSector Allocator Premium Index (Pure Gross)	Dow Jones Moderate Global Index	AlphaSector Allocator Blended Index
2nd Quarter	1.35%	1.08%	1.03%
Year-to-Date	4.87%	4.40%	4.84%
Trailing 1 Year	22.94%	20.75%	22.42%
Trailing 3 Years	14.89%	5.45%	3.73%
Trailing 5 Years	15.15%	5.36%	4.34%
Trailing 10 Years	13.36%	6.62%	4.96%
Since Inception (4/1/01)	13.38%	6.94%	5.11%
Cumulative Return (4/1/01-6/30/11)	262.39%	98.95%	66.64%

Return/Risk Analysis

4/1/2001 to 6/30/2011	AlphaSector Allocator Premium Index (Pure Gross)	Dow Jones Moderate Global Index	AlphaSector Allocator Blended Index
Best Month	6.81%	8.24%	7.71%
Worst Month	-5.81%	-13.63%	-13.46%
% of Up Month	70%	63%	61%
% of Down Month	30%	37%	39%
Maximum Drawdown (%)	-8.15%	-35.06%	-39.27%

Yearly Returns

	AlphaSector Allocator Premium Index (Pure Gross)	Dow Jones Moderate Global Index	AlphaSector Allocator Blended Index
2010	12.69%	13.95%	11.60%
2009	29.39%	23.79%	22.41%
2008	3.32%	-24.74%	-27.77%
2007	15.50%	8.02%	7.90%
2006	15.40%	11.91%	14.78%
2005	10.74%	7.25%	6.71%
2004	14.64%	13.15%	11.35%
2003	21.89%	27.18%	23.62%
2002	5.58%	-7.05%	-11.18%
2001 (9 months)	5.34%	3.51%	-0.32%

Comparative Return/Risk Analysis

4/1/2001 to 6/30/2011	AlphaSector Allocator Premium Index (Pure Gross)	vs. Dow Jones Moderate Global Index	AlphaSector Allocator Premium Index (Pure Gross)	vs. AlphaSector Allocator Blended Index
Alpha[2] [3]	9.72%	0.00%	10.78%	0.00%
Beta[2] [3]	0.49%	1.00%	0.46%	1.00%
Standard Deviation[1]	7.32%	10.72%	7.32%	11.41%
R-Squared[2] [3]	51.29%	100.00%	51.93%	100.00%
Up Capture Ratio	90.10%	100.00%	89.10%	100.00%
Down Capture Ratio	35.80%	100.00%	29.50%	100.00%

Source: Morningstar, F-Squared Investments, Zephyr StyleADVISOR
[1] Annualized standard deviation since inception
[2] Calculated since inception vs. Dow Jones Moderate Global Index
[3] Calculated since inception vs. AlphaSector Blended Index

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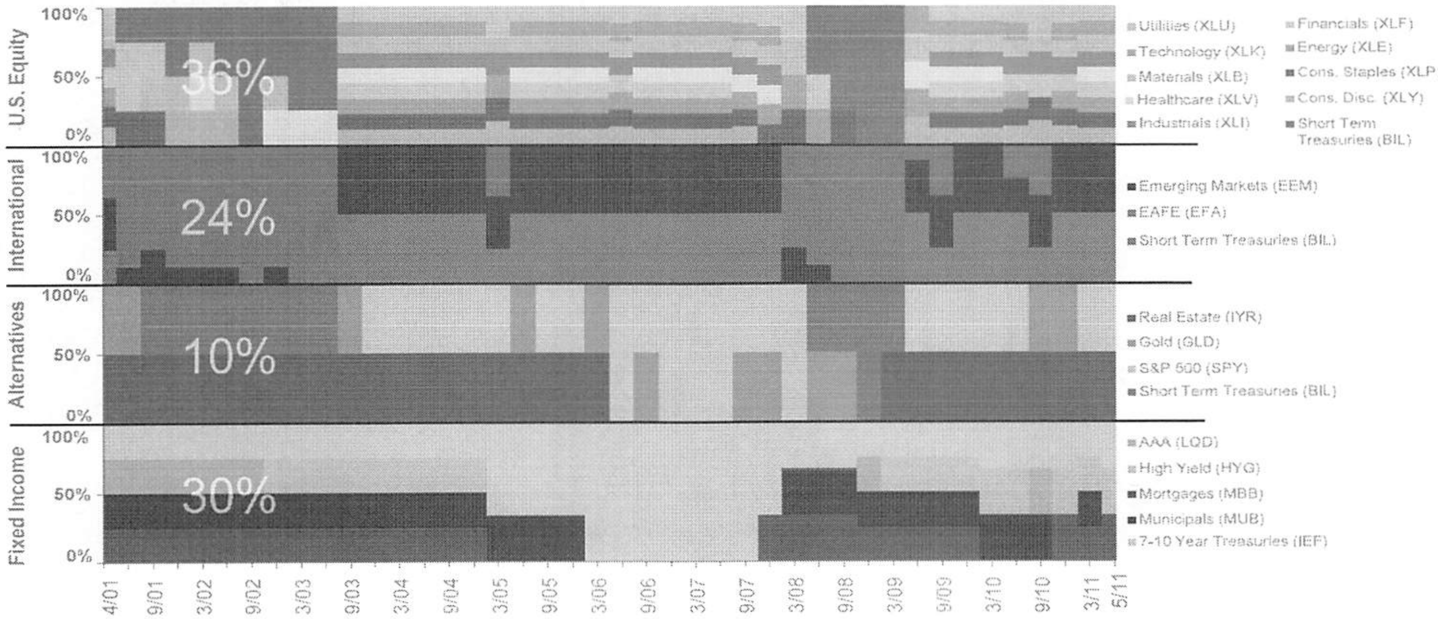
Historical Portfolio Diversification and Re-allocation

April 1, 2001 - May 31, 2011

The AlphaSector Allocator Premium Index is divided into four sleeves with fixed percentage allocations - domestic equity 36%, international equity 24%, fixed income 30%, and alternatives 10%. Each sleeve is populated by a set of relevant ETFs that can be "turned on" or "turned off" based upon a weekly risk assessment calculation. Under certain circumstances each sleeve has the potential to have a 100% allocation to cash.



Note periods where the Index goes to cash: (BIL) (IEF)

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ETF Universe (By Sleeve):

The AlphaSector Allocator Premium Index Covers all Major Asset Classes

U.S. Equity ETFs (36%)	
Consumer Discretionary	XLY
Consumer Staples	XLP
Energy	XLE
Financials	XLF
Healthcare	XLV
Industrials	XLI
Materials	XLB
Technology	XLK
Utilities	XLU
Short-term Treasuries	BIL

International Equity ETFs (24%)	
EAFE (Developed Markets)	EFA
Emerging Markets	EEM
Short-term Treasuries	BIL

Fixed Income ETFs (30%)	
7-10 year Treasury Bond	IEF
AAA Corp Bond	LQD
High Yield	HYG
Municipals	MUB
Mortgages	MBB

Alternative ETFs (10%)	
Gold	GLD
Real Estate	IYR
S&P 500	SPY
Short-term Treasuries	BIL

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Important Disclosures

ALPHASECTOR ALLOCATOR PREMIUM INDEX:

The AlphaSector Allocator Premium Index is owned and published by Active Index Solutions, LLC ("AIS"). The AlphaSector Allocator Premium Index is a quantitatively driven index that applies a weekly trading protocol to the nine Select Sector SPDRs, a Treasury exchange traded fund, two international ETFs, five fixed income ETFs, two "alternative" ETFs, and a S&P 500 SPDR. There is no guarantee that the advisor will be successful in achieving returns similar to the AlphaSector Allocator Premium Index, and in fact client returns may be significantly lower than the index returns after actual fees are taken into account, including management fees, brokerage or transaction costs, or other administrative or custodian fees a client may incur.

"AlphaSector" is a service mark of F-Squared Investments, Inc., and AIS. Neither AIS nor F-Squared Investments, Inc., is affiliated with Navellier & Associates, Inc. Navellier & Associates, Inc., has entered into a Model Manager Agreement with F-Squared pursuant to which it timely receives any changes made to the AlphaSector Allocator Premium Index holdings. Investment products such as the Vireo AlphaSector Allocator Premium strategy that are based on the AlphaSector Allocator Premium Index are not necessarily sponsored by AIS or F-Squared, and AIS and F-Squared do not make any representation regarding the advisability of investing in them. One cannot directly invest in an index. Index returns presented represent past performance, and are not a guarantee of future results or indicative of any specific investment.

Navellier does not calculate the statistical information included in the attached report. The calculation and the information are provided by Zephyr Associates, a company not related to Navellier. Although information contained in the report has been obtained from Zephyr Associates and is based on sources Navellier believes to be reliable, Navellier does not guarantee its accuracy, and it may be incomplete or condensed. The report and the related Zephyr sourced information are provided on an "as is" basis. The user assumes the entire risk of any use made of this information. Investors should consider the report as only a single factor in making their investment decision. The report is for informational purposes only and is not intended as an offer or solicitation for the purchase or sale of a security. Zephyr sourced information is the exclusive property of Zephyr Associates. Without prior written permission of Zephyr Associates, this information may not be reproduced, disseminated, or used to create any financial products.

The Dow Jones Moderate Global Index is a benchmark that takes 60% of the risk of the global securities market. It is a total returns index that is a time-varying weighted average of stocks, bonds, and cash. The index is the efficient allocation of stocks, bonds, and cash in a portfolio whose semideviation is 60% of the annualized 36-month historic semideviation of the Dow Jones Aggressive Portfolio Index. Stocks are represented by the Dow Jones Aggressive Portfolio Index. Bonds are represented by an equal weighting of the following four bond indexes with monthly rebalancing: BarCap Government Bonds Index, BarCap Corporate Bonds Index, BarCap Mortgage-backed Bonds Index, and BarCap Majors (ex U.S.) Bonds Index. Cash is represented by the 91-Day T-Bill Auction Average. The efficient portfolio is updated monthly. Presentation of Index data does not reflect a belief by Navellier that any stock index constitutes an investment alternative to any Navellier equity strategy presented in these materials, or is necessarily comparable to such strategies and an investor cannot invest directly in an index. Among the most important differences between the Indices and Navellier strategies are that the Navellier equity strategies may (1) incur material management fees, (2) concentrate investments in relatively few ETFs, industries, or sectors, (3) have significantly greater trading activity and related costs, and (4) be significantly more or less volatile than the Indices. The secondary benchmark for the composite is a blended benchmark using the following indices: S&P 500 (45%), MSCI World ex U.S. (25%), and Barclays Capital U.S. Aggregate Bond Index (30%). The benchmark is rebalanced daily. The S&P 500 Index measures the performance of the 500 leading companies in leading industries of the U.S. economy, focusing on the large cap segment of the market, with approximately 75% coverage of U.S. equities. The MSCI World ex U.S. Index is a free float-adjusted market capitalization weighted index that is designed to measure the equity market performance of developed markets. As of June 2011, the MSCI World ex U.S. Index consisted of the following 23 developed market country indices: Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Hong Kong, Ireland, Israel, Italy, Japan, the Netherlands, New Zealand, Norway, Portugal, Singapore, Spain, Sweden, Switzerland, and the United Kingdom. MSCI World ex U.S. Index targets 85% of the free float adjusted market capitalization. The Barclays Capital U.S. Aggregate Bond Index is a broad-based benchmark that measures the investment grade, U.S. dollar-denominated, fixed-rate taxable bond market, including Treasuries, government-related and corporate securities, MBS (agency fixed-rate and hybrid ARM passthroughs), ABS, and CMBS.

Potential investors should consult with their financial advisor before investing in any Navellier Investment Product. Investment in equity strategies involves substantial risk and has the potential for partial or complete loss of funds invested.

About Vireo

800.887.8671

Navellier & Associates
One East Liberty, Third Floor,
Reno, Nevada 89501

Vireo Portfolio Sponsor
Navellier & Associates

Model Portfolio Management
F-Squared Investments/Active Index Solutions, LLC

Total Product Assets: $283 million

Benchmark: Dow Jones Moderate Global Index & AlphaSector Allocator Blended Index

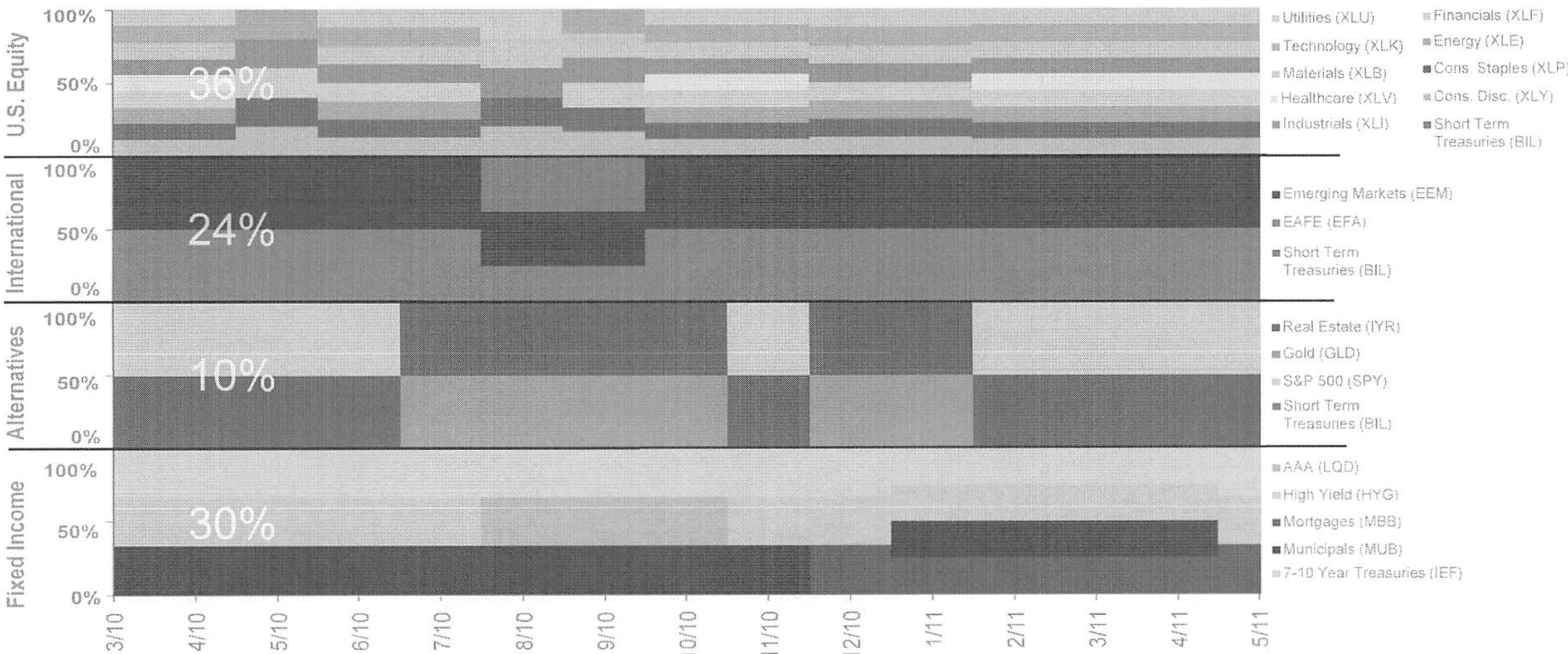
Objective: The AlphaSector Allocator Premium Index seeks to limit losses during severe market downturns while fully participating in up markets.

Investment Process: The AlphaSector Allocator Premium Index utilizes a highly disciplined, quantitative process to assess forward-looking risk across all major asset classes. Using widely available ETFs, the portfolio will re-allocate between individual sectors and asset classes whenever the risk is deemed too great. When conditions warrant, the portfolio can go to cash.

Vireo AlphaSector Allocator Premium • Supplemental Information

Portfolio Diversification and Re-allocation History March 1, 2010 - May 31, 2011

The Vireo AlphaSector Allocator Premium Portfolio is divided into four sleeves with fixed percentage allocations - domestic equity 36%, international equity 24%, fixed income 30%, and alternatives 10%. Each sleeve is populated by a set of relevant ETFs that can be "turned on" or "turned off" based upon a weekly risk assessment calculation. Under certain circumstances each sleeve has the potential to have a 100% allocation to cash (cash equivalence).



Note periods where the portfolio goes to cash: (BIL) (IEF)

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Introducing Vireo

An exciting, new, defensive ETF portfolio

Vireo AlphaSector Allocator Premium Portfolio

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AlphaSector Allocator Premium Index provides investors critical benefits rarely seen in long-only strategies

- **Alpha is expressed where it is needed the most**
  - Traditional managers attempt to deliver their highest alpha in strong bull markets
    - Traditional portfolios typically exhibit underperformance or modest outperformance in bear markets
  - AlphaSector Allocator Premium Index has historically delivered consistent alpha in "normal" markets and highest alpha in negative markets
    - However, the portfolio can lag in strong bull markets
- **AlphaSector Allocator Premium has the potential to improve consistency of returns across multiple markets**
- **Live track record for U.S. equity sleeve – stress tested across *two* bear markets**
  - Live assets began tracking the strategies:

U.S. Equity – April 1, 2001	International – May 1, 2009
Fixed Income – December1, 2009	Alternatives – December 1, 2009

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Extreme losses can destroy any investment plan

Loss	Gain Required to Recover	Capital Gap	Years Required for Full Recovery	Years Required to Recover Capital Gap
-3.1%	**3.2%**	**0.1%**	**0.3**	**0.1**
-10.0%	11.1%	1.1%	1.0	0.1
-20.0%	25.0%	5.0%	2.0	0.4
-30.0%	42.9%	12.9%	3.3	1.1
-40.0%	66.7%	26.7%	4.7	2.2
-50.0%	100.0%	50.0%	6.3	3.7
-51.0%	**104.1%**	**53.1%**	**6.5**	**3.9**
-60.0%	150.0%	90.0%	8.4	5.9
-70.0%	233.3%	163.3%	11.0	8.8
-80.0%	400.0%	320.0%	14.7	13.1
-90.0%	900.0%	810.%	20.9	20.1

In less than one year (5/18/2008–3/7/2009), the S&P 500 lost -51%; full recovery requires a gain of 104%

During the same period, the AlphaSector Allocator Premium Index lost -3%; full recovery requires a gain of only 3%

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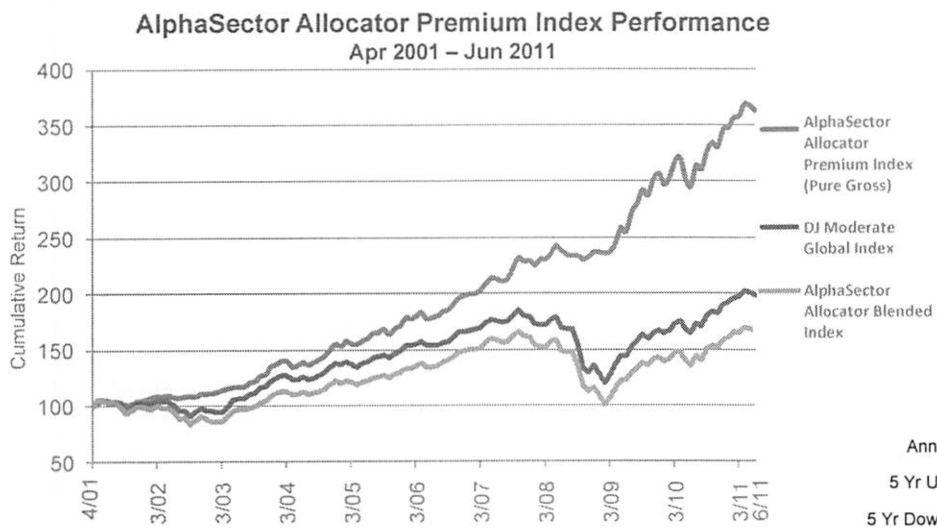
Limiting risk in down markets and participating in up markets

AlphaSector Allocator Premium Index is designed to consistently outperform the Dow Jones Moderate Global Index and outperform cash

- Quality downside risk management, especially in weak markets
- Powerful but simple story, and uses **NO** derivatives, leverage, or shorting



As of Jun 2011

	AlphaSector Allocator Premium Index (Pure Gross)	vs. DJ Moderate Global Index	AlphaSector Allocator Premium Index (Pure Gross)	vs. AlphaSector Allocator Blended Index
Cum. Return	262.4%	99.0%	262.4%	66.6%
1 Yr Return	22.9%	20.8%	22.9%	22.4%
3 Yr Return	14.9%	5.5%	14.9%	3.7%
5 Yr Return	15.2%	5.4%	15.2%	4.3%
Max Drawdown	-8.2%	-35.1%	-8.2%	-39.3%
Std. Dev.	7.3%	10.7%	7.3%	11.4%
Alpha	9.7%	N/A	10.8%	N/A
R-Squared	51%	N/A	52%	N/A
Beta	0.5%	N/A	0.5%	N/A
Ann. Excess Return	6.4%	N/A	8.3%	N/A
5 Yr Up Capture Ratio	100%	N/A	93%	N/A
5 Yr Down Capture Ratio	38%	N/A	33%	N/A

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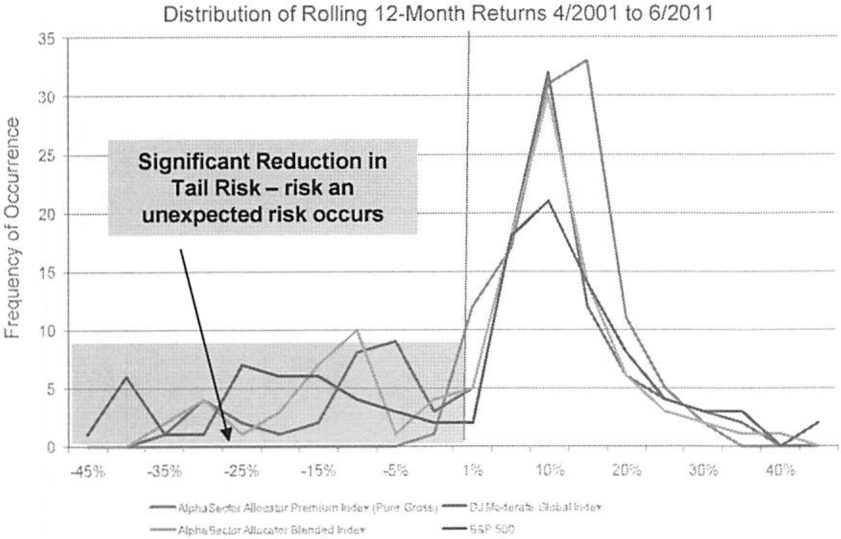
Distribution of annual returns since inception shows the reduction in losses that has been incurred

AlphaSector Allocator Premium Index vs. Dow Jones Moderate Global Index, AlphaSector Allocator Blended Index, and S&P 500

Distribution of Rolling 12-Month Returns 4/2001 to 6/2011



	AlphaSector Allocator Premium Index (Pure Gross)	DJ Moderate Global Index	AlphaSector Allocator Blended Index	S&P 500
Maximum Return	33.84%	39.42%	40.00%	53.62%
Minimum Return	-0.69%	-30.38%	-33.85%	-43.32%
Percent Positive	99%	75%	71%	69%

For Financial Consultant One-on-One Use Only. April 2001 to June 2011. Source: Zephyr StyleAdvisor, F-Squared Investments. Performance results presented herein do not necessarily indicate future performance. **Investment in equity strategies involves substantial risk and has the potential for partial or complete loss of funds invested.** Results presented include reinvestment of all dividends and other earnings. Please read important disclosures at the end of this presentation.

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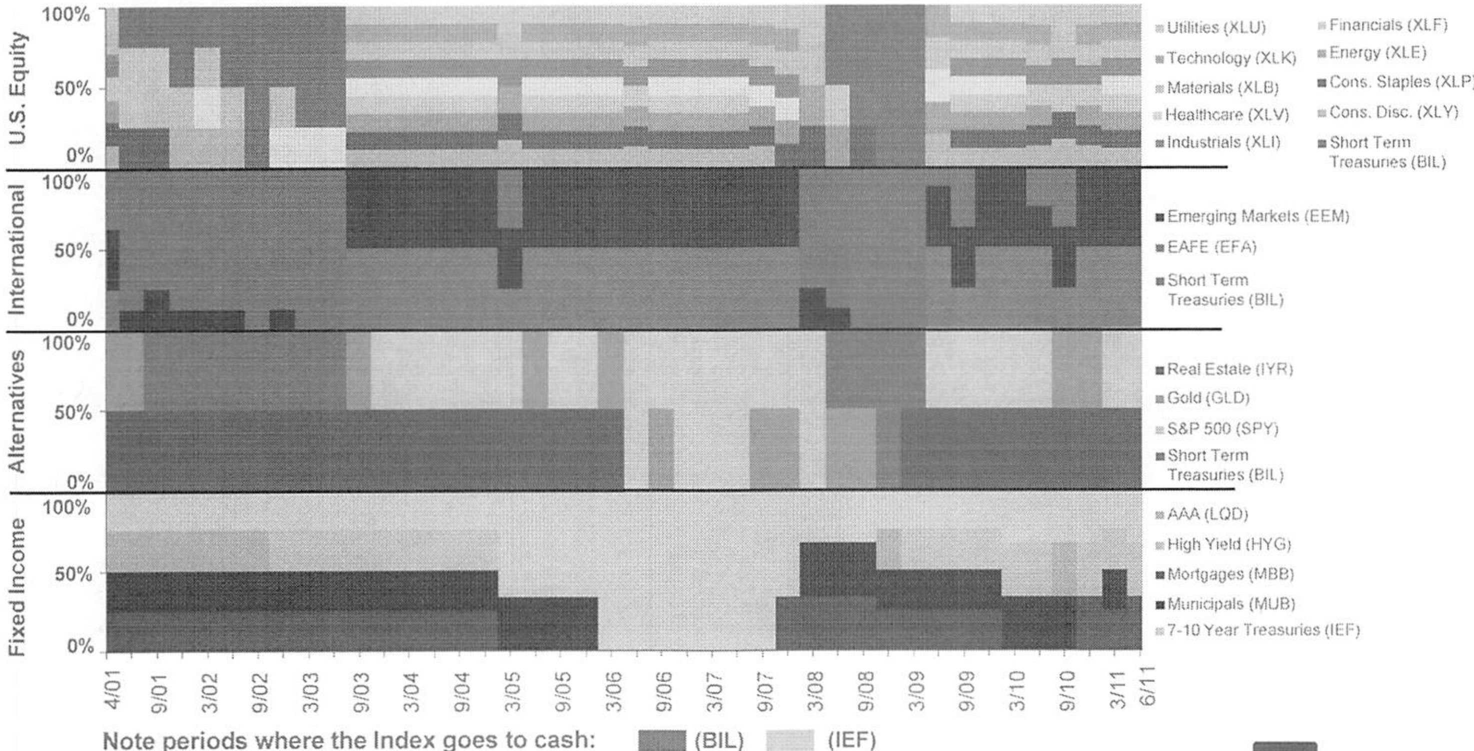
AlphaSector Allocator Premium includes or excludes sectors in the portfolio through disciplined re-allocation and diversification



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Important Disclosures

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The "U.S. equity sleeve" referenced in the materials refers to the AlphaSector Premium Index, with the strategy that the AlphaSector Premium Index is based on having an inception date of April 1, 2001. The process of converting the active strategy to an index implies that the returns presented, while not back-tested, reflect theoretical performance an investor would have obtained had it invested in the manner shown and does not represent returns that an investor may have actually attained, as an investor cannot invest directly into an index. Theoretical and hypothetical performance have many inherent limitations. The performance is adjusted to reflect the reinvestment of dividends.

AlphaSector Allocator Premium Index is the exclusive property of F-Squared Investments, Inc. and AIS. AIS calculates and publishes the value of the index on a monthly basis. Source: Morningstar Direct. Although AlphaSector Indexes do not short securities nor utilize leverage or derivatives, the ETFs that AlphaSector tracks may make use of such financial instruments or strategies.

"AlphaSector" is a service mark of F-Squared Investments, Inc. and AIS. Neither AIS nor F-Squared Investments, Inc., is affiliated with Navellier & Associates, Inc. Navellier & Associates, Inc. has entered into a Model Manager Agreement with F-Squared pursuant to which it timely receives any changes made to the AlphaSector Allocator Premium Index holdings. Investment products such as the Navellier Vireo AlphaSector Allocator Premium strategy that are based on the AlphaSector Allocator Premium Index are not necessarily sponsored by AIS or F-Squared, and AIS and F-Squared do not make any representation regarding the advisability of investing in them. One cannot directly invest in an index. Index returns presented represent past performance and are not a guarantee of future results or indicative of any specific investment.

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Important Disclosures (cont.)

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The S&P 500 Index measures the performance of 500 stocks that are considered to be widely held by Standard & Poors, a division of The McGraw-Hill Companies, Inc., and comprises approximately three-quarters of the total capitalization of companies publicly traded in the United States. The S&P 500 Index is weighted by market value and its performance is thought to be representative of the stock market as a whole. It is reported that over 70% of all U.S. equity funds are tracked by the S&P 500. The index selects its companies based upon their market size, liquidity, and sector. Most of the companies in the index are mid cap or large corporations. This index is composed of 400 industrial, 20 transportation, 40 utility, and 40 financial companies. Many experts consider the S&P 500 one of the most important benchmarks available to judge overall U.S. market performance.

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SUPPLEMENTAL INFORMATION

CONFERENCE CALL WITH HOWARD PRESENT OF F-SQUARED INVESTMENTS, INC.

August 8, 2011

John Ranft: Good morning, everyone and welcome to the Vireo update call.

Thanks for joining us and thank you for your business and your confidence.

The purpose of today's call is to give you more insight into how the Vireo/F-Squared process works especially given the recent volatility in the market. We are joined by Howard Present, President and Co-founder of F-Squared Investments, Navellier's partner in the Vireo portfolios.

As was mentioned in the conference call invitation, due to the number of participants on the call, all lines have been muted. If you would like to submit a question, please email them to Brent Farber at Navellier who will forward them to F-Squared. Brent's email address is brentf@navellier.com.

And now, Mr. Howard Present. Howard?

Howard Present: Hey, John, a pleasure to be on. How would you like to handle this? Do you want a quick overview and then we can get to questions?

John: Yes, that would be fine.

Howard: Alright. Hopefully everybody can hear me alright.

This has been an interesting year, calendar year 2011. And in fact, in some ways, this is now the fourth consecutive year of fairly dramatically different economic environments going back to 2008 bear market, 2009 aggressive rally. 2010 in general was a positive economic environment. Now we see the S&P at the end of the year up 15% although it was characterized by very high volatility, high correlation among the sectors. This year, I would say, up until the end of July, the way I would have characterized the year has been a lot of headline risk translating to a certain amount of volatility, translated into the S&P 500. But in reality, it was still a fairly attractive environment for investing. Through the end of July the S&P was up 3.9% on a total return basis. There had been some fairly meaningful cyclicality but it seemed like the market would cycle up and then trend down due to some concerns about maybe international sovereign risk, etc. But the lows were always higher than the prior low, and the highs were always higher than the prior highs. So it was an environment that, as I said, translated into some pretty meaningful returns, considering especially the economic environment.

What changed the equation in a lot of ways is the first week of August, and certainly today hasn't started off particularly well. But the decline that occurred over the last week where the S&P literally, in a five trading day period, was down over 7% has changed the equation. Now looking at the S&P, and certainly over the last 30 days and 90 days, you're starting to see some fairly meaningful declines, the S&P's down if you take a look at the last 30 days, it's down about 10.4% and the S&P over the last 90 days is pretty much in line, 10.2%. The key characteristic relative to understanding AlphaSector is that literally 70% of that decline, that 10% decline we've seen in the last 30 days, the last 90 days, occurred in the last week. And so in a lot of ways, and certainly the way the AlphaSector engines respond to market data and market dynamics a lot of this is really a one-week relevant move.

Now the key question's going to be whether or not this is a great buying opportunity -- which I just saw a report from one of the major wire-house firms that said that that's exactly what this is and they actually just formally increased their allocation to large cap equities – or is this going to be the beginning of a meaningful correction and potentially an extended bear market? And I guess that's the key question facing all of us right now.

I will tell you, just to give you a short, a little bit of an advance notice, over the weekend, one of the nine sectors of the S&P turned off in our engines, so we are down to eight sectors active. And I will give you a lot more data, but I will also tell you that there's been a fairly transformational adjustment or change in the overall profile of our signals and the vast, vast majority of those eight sectors that are still on are now in what we would consider a red zone which means they are very vulnerable to declines if you will, to moving negative which could result in them turning off.

In fact, as sort of an advance on this, I'll get into more detail later, there's only one or two of the nine sectors that we think are at all stable at this point: that's the Utilities and Consumer Staples. Those two have had the least volatility, the least market declines. They're not in what I would consider robust shape, but certainly they're the only two that have not moved into this red zone as far as our models. What that means is that it's very possible over the next several weeks that you could see the majority of the sectors turn off to the point where AlphaSector actually starts moving into a partial cash position.

So let me go back a little bit into the market, give you some dynamics so far on a year-to-date basis, and then probably at that point, translate that into implications for our models, and then we'll open it up for Q&A.

One of the key elements behind AlphaSector is an element we call Dynamic Volatility Window. And what this does is it adjusts the overall sensitivity of the engines to the market. The higher the volatility, and this is a sector by sector decision, not based upon the S&P, the higher the volatility in a given sector, the more that translates into an increased sensitivity to current events, current market dynamics into our engine. As volatility decreases and moves into a more benign environment it tends to result in a little bit less sensitivity and translates to, if you will, analytically speaking, a more patient analysis of events.

The year has been characterized, interestingly enough, into the first quarter or so and now the second quarter, particularly the last 30 days. The first quarter overall if you take a look at all nine sectors they were from a volatility standpoint, it was pretty benign. On average they were up about 18%, some a little bit higher, some a little lower. Technology was one of the ones that had seen probably the highest, and Industrials -- excuse me -- Technology had seen probably the highest level of increase on a change basis for the first quarter.

The second quarter has changed that dynamic. On a percent change basis, based again on our proprietary volatility measure, we've seen volatility increase 83%. Now that's a lot. On a year-to-date basis that means that the volatility has more than doubled. It's up on average across the sectors, 115%. The highest one is actually Energy which is up 225% on a year-to-date basis.

What that means is that over the last quarter, and a lot of this has accelerated in the last 30 days, we've been increasing the sensitivity of our engines. One of the key components of our analysis is rolling moving averages, and this means we've been shortening that rolling moving average. Where the other dynamic which we saw actually a year ago which can be profoundly negative in the way that returns are translated has to do with correlation sector to sector. The good news here is that there's still some meaningful dispersion of returns. In other words, correlations have not dominated the market – it has over the last week because everything's gone down aggressively. But you're still seeing some pretty meaningful changes, not only over the last week, but certainly over the last several months, where for example if you look at the last 30 days, Industrials are down 16% and you have a couple like Consumer Staples that are down just five, and of that 5% the vast majority of it occurred in the last week. So we are still seeing dispersion returns at the sector level that's very constructive – that's a positive for us – that also represents a reasonable degree of market health as far as our analysis of it. So if you couple reasonable dispersion, in other words, correlation not getting excessive at this point coupled with increasing volatility that translates into the way our engines operate, as follows:

We are now shortening our horizons so our sensitivity to the current market has picked up. We anticipate that this will result in not an impact on every single one of the sectors, but, as I said, one sector turned off over the week, and literally if you look at six of the remaining eight sectors, the degree of weakening that we've seen in the last couple weeks, in other words, the number of sectors that have been moved right to the cusp of turning off or going negative for us, is literally the most aggressive downward shift in market sentiment that we've seen, certainly on a broad-based basis, in the history of the ten years' operations of the signals.

Our outlook at this point is therefore turning fairly bearish. We're not trying to get into a fundamental analysis of the market, but I can tell you, one sector's off. We have six others that are in what I consider this red zone which is a high watch environment. We would not be surprised in the least over the next one week, two weeks', three weeks' period to see enough sectors turn off for us to actually build a cash position. This is a pretty negative environment by the way we evaluate the marketplace.

I do want to end with a couple of data points that provide context to what AlphaSector is intending to do, what we've done in the past, and if you will, I'm going to try to manage expectations a little bit here.

The first data point I want to provide to you tends to be the time period that our models require before you'll see a meaningful shift of positive to negative, negative to positive. In a very high volatility environment such as we saw in 2008, the low, the shortest window we saw was about a four-week move from a market peak to when a signal would turn off, and Energy from the first, second week of July of 2008 is a good example. We actually turned that sector off in the second week of August. So about a four-or five-week window has historically been the low end. As I said right now, we're actually in a position where for all intents and purposes, you could be looking at a two-week or a three-week window for meaningful sectors being turned off.

So, we do not try to respond on a day-to-day or week-to-week basis, and certainly not with the kind of volatility we just saw, it's not intended to operate on a daily basis. I'm sure that will come up in the Q&A as far as why. But the main perspective that should be drawn from that is that we're not trying to guess the market dynamics; we're not market timing. We're trying to identify the longer-term and intermediate-term trends that are affecting the market and put together a stable investment program that allows clients to succeed. That's worked dramatically well for us in the past; we've beaten the S&P in eight of the nine last calendar years. We have effectively avoided the last two bear markets. There are some very confusing market dynamics in second quarter and third quarter of 2010; we managed to handle those well, and so far year-to-date there's a lot of managers who are lagging the S&P by probably, I don't know, a thousand basis points and right now we're modestly ahead of the S&P, about 100 basis points on a year-to-date basis.

The second thing I want to put into context is – and we've sent this kind of information out in the past – is: we provide aggressive downside risk controls, but they're not intended to be an absolute return product. This product is capable of losing 8-10%, 12%, on a rolling 90-day basis. That's happened in the past, in fact the worst rolling 90-day returns in the history of this strategy has been a 14% loss. Characterize that by the worst 90-day return for the S&P 500 which is a 41% loss.

The other thing that's critical here is that certainly in the past the AlphaSector engine and the AlphaSector model have effectively put a floor in place fairly quickly. And what's really, I think, one of the key data points is that if you look at rolling 6-month returns, and you look at the worst that we've had, so rolling 90-day the worst return is a 14% loss. Rolling 6-month the worst return is an 11% loss which is actually better obviously than the 90-day, and the worst rolling one-year return is a 10½% loss. If you look at the S&P, it goes 41 for rolling 90-days, 46% is the worst for rolling 6-months, and 47½ for rolling 12-months.

So we do have the capacity, we do have the historical reality that we could lose money in that 10% plus or minus range, but that tends to be the floor at which point the returns over slightly longer rolling periods start to improve. And on average over rolling one-year periods, the AlphaSector Premium Index has actually exceeded the return of the S&P 87% of the time.

So with that, let me leave one sort of an information point and then I'll open it up to questions. From an information standpoint we do have a special market update that will probably reflect much of what I just got done saying over the last ten or fifteen minutes. It will be coming out and will be posted on our website and our partner firms' websites, such as Navellier's, by the end of today.

And with that, John, why don't we open up for questions.

Q&A

John: Alright, Howard, we've sent a few questions to you by email. Do you have access to those?

Howard: Yes, I probably do somewhere around here.

John: Why don't we start with those then, because we've got about 150 or 160 people on the call and rather than just opening it up for a free-for-all.

Howard: Alright, the first question here is, and I'll paraphrase it slightly, it's a little bit long:

Q: It seems that the market tended to peak at the beginning of May and it's been trending down since then. There hasn't been a lot of trading on the ETF side, and the question was: How come?

A: I sort of gave the underpinning to the answer at the beginning here, but if you actually look at the first seven months of the year, and you can even take a look at the last couple months, in general the market has been trending up. The market would rally, there'd be some sort of pullback, the bottom would be higher than the prior bottom, and it would take back off again. The high would reach a new high.

The real change to that dynamic, and in fact as I said, 70% of the decline over the last 30 days, and 90 days has occurred in the last five trading days of this year which is the first five trading days of August. So from a lot of perspectives and certainly the way our engines work, much of the meaningful, negative sentiment that everybody's responding to today is actually one-week old. Now that said, we did turn a signal off, that signal went out over the weekend; so the portfolios are trading today, and as I said I expect to see more changes occurring over the next several weeks.

But the overall approach of the AlphaSector model is while the markets tend to have a consensus in trend, certainly sector by sector, which it had for the majority of this year, we don't trade, so we don't try to engage in unnecessary trading. The average holding period for AlphaSector is at this point just under a year. So we tend to have a fairly long-term holding under almost all conditions.

Howard: John, are we ready to go to the second one?

John: Yes, go ahead.

Q: This one says that the F-Squared models are proprietary which this individual understood, and they wanted to understand a little bit more detail on what causes the buy and sell signals.

A: Well, they are proprietary so there's a limit to how much we can share. The key drivers behind the signals are rolling moving averages, built around total return of each sector. A key component is the volatility of the sector today, current market environment. We have a proprietary volatility calculation which we generate which includes intraday volatility as well as closing day volatility. You can see for example on Friday how much of a difference intraday volatility has versus closing volatility. And then the last one is the rate of change of that volatility factor. I'm not going to go through the whole methodology. I know there's been a lot of information out there on this. But the key element is that we implement a dynamic volatility window. Our engine is intended to be able to become more sensitive to current events as volatility is increasing, and we've seen that over the last quarter. And when we have effectively, where our proprietary rolling engine, rolling models – sees a crossover point versus current trends, we use a lot of data smoothing so it's not just a simple long-term rolling average against a short-term price change. But when those things shift then that would go from a positive to a negative or a negative to a positive.

Howard: John, is it worth going into more detail than that?

John: No, I think that's fine; and if anybody would like more information about the process, we do have a presentation that if you'll contact us at Navellier, we'll be more than happy to email to you which will perhaps explain it a little bit better, or a little bit clearer.

Howard: Well put; and the next one has to do with, again, it's sort of repetitive on what goes into the models which I've shared.

Q: The next question gets into the timing and scheduling of buys and sells which I think has probably two implications. Number one, is trading obligated to occur on a Monday, and the second one is do we operate our engine? And this is a question that comes up a lot. Why do we only run it once a week? What about running it every day or more frequently?

A: Let me answer that in this order. We run our engines. It translates to potential changes in the portfolio. We publish our returns and our portfolio structure as an index. The public index there's a tremendous amount of structure imbedded around that. That structure includes both rigor and oversight and so when we send our signals out to Navellier who will be trading the accounts for you all, their job is to try to implement that in a manner that's as efficient and reasonable as possible. That does not mean that it needs to be at 9:01 every morning, considering market dynamics to determine whether or not it's a stable enough market to begin trading. But there is not any flexibility in the timing of those events.

Q: The second question gets into why does our engine operate only on a weekly basis? And the reason is our volatility measures actually break the world into blocks of data. And those data blocks are five business days long. So when we go back and look at the last 5 years' worth of data and are calculating our moving averages or calculating our volatility measures, etc., we view the world in little packets of data that are one-week in length. There's some critical data smoothing that comes from this.

You know what's interesting to me is there's a lot of managers out there that are going to try to have the ability to go to cash, more and more every day can do that. And some of them will make some really good calls and deserve credit for that. The key is repeatedly making quality calls. This is an engine and an approach, and a methodology that's effectively been in place for over a decade. In 2002 the market was down about 20%, the strategy was up 5. In 2008 the market was down 37, the strategy was down less than 2. We're not trying to catch every market move. We are trying to be able to provide a high-quality profile of returns over time. And the data smoothing that comes from this weekly packet of data is actually very important to the stability and quality of the signals we've generated.

Howard: And I think that pretty much answers effectively all the questions you've sent me so far, John. What else have you got?

John: Well, Howard, at the risk of causing an avalanche here, I'll invite anybody that would like to ask a question if you'll hit *6 that will un-mute your line, and then just keep your question short and brief. Then, Howard, will you then answer it, please.

Howard: We'll run it for the time being and see how long it goes. Maybe another 15 minutes.

John: That's fine. So anybody that wants to hit *6 and un-mute your line, and you can ask Howard a question directly, please.

Q: Howard, I was just going to ask on the rolling 90-day, 6-month, and one-year numbers that you quoted, was that just for the domestic equity version, or is that the AllWeather version?

A: Everything I gave you is the domestic equities. As it turns out the Allocator data actually is much better. And everybody right now I think is focusing – you know the bond market, even this morning, even with the S&P modest downgrade, last time I saw, the Treasuries had strengthened rather than weakened on that. So really the driver of I think a lot of the market sentiment right now and certainly the driver of a lot of the performance is the US equities which is what I've been sharing. When we come up with our update later today, we'll add the Allocator data in but I will tell you, the rolling periods for the Allocator are much better than the US equity because you've got a 30% bond piece, you've got gold, you've got REIT, some other diversifiers in there. So we'll be able to provide an updated data, but just to not to be overly confusing to the call this morning, I've been focusing all the dynamics on the US equity piece.

Q: Howard, I did a seminar for F-Squared and I had a computer programmer there who said, you know, I understand the principle of GIGO: garbage in, garbage out. Does the computer make all these decisions without human involvement? And what do you do to safeguard against any garbage in, garbage out type behavior?

A: Yes, it's an important question. The engine runs on an unadjusted and independent basis, and we therefore do not have human intervention to the key process. I want to answer your question, but let me also make just one point. A lot of the intent and a lot of the success of AlphaSector to date has been based upon consistency and repeatability of returns. And to our view and philosophy the only way to deliver that is from a consistency and repeatability of process. So having a quantitative or if you will objective, unemotional approach we think is very important to that process; and just from a perspective standpoint, if there's 125 people on this call today, and we took a poll: How many of them think that the market's going to go down 10% between now and year-end; and how many think it's going to go up 10%? I would wager that it's somewhere close to 50/50 split. When you're talking about significant market moves, and inflection points, and whether it's a sector, or cumulatively the sectors add up to broad market review, at the time we're making decisions like right now they are unbelievably emotionally-charged. They are unbelievably, I think, challenging for individuals to apply a consistent, unemotional approach. Now like I just said, I just saw one of the major wire-houses just came out with basically their increase in the US equity allocation; and I know there's a lot of firms out there saying that we're heading into a double-dip recession, another bear market. So, anyway, all that conflicting information, individuals, I think are going to make bad calls, but let me answer your...

Q: What about your international weight?

A: Hang on a second. Let me answer this garbage in, garbage out. So we do pay strict attention to the stability of the inputs and from that standpoint we're looking at is there something in the data signals that would cause the engine not to interact with that data or analyze that data correctly? I will tell you in 2009 we came to exactly that conclusion. The tail end of 2008 was a massive spike in volatility and the unbelievable collapse in return caused what from our definition was a discontinuity, if you will, a break in the data feeds at the sector level.

We actually made a temporary adjustment to the way the analytical engines operate in

2009. We implemented that in February. Sector by sector they were removed as we got from July through November of 2009. Today the engine's working exactly the way it was at the beginning of 2008. But I will tell you that that adjustment we made to address that garbage in, garbage out problem probably added nine hundred basis points to the return in 2009 and was the difference why we outperformed the S&P by 600 as opposed to lagging by 300. So hopefully that addresses the question.

Q: Internationally, what about your emerging markets – are they on or off, and also the regular bond markets?

A: So right now as it stands today, emerging markets and EAFE are fully invested. I will tell you, though, that they could be massively in cash here over the next couple weeks. So the signals and the other early feeds that we have indicating what's likely to occur over the next several weeks should result in almost a complete shift to cash or certainly very close to that for the international portfolio.

On the bond side what we're looking at right now is corporates are still in high yield although I expect that to shift over the coming weeks. We also have mortgages that have turned off and on the gold/REIT side, gold is off although that's very likely to turn back on given the current market dynamics and REITs are on although that's probably vulnerable to a negative turn in the next several weeks.

John: Howard, you touched on gold very quickly. We've had a number of questions come up about why it's been off for the majority of the year. I know you don't like to get into specifics, but can you address gold at all, please?

A: Well I'll tell you this, gold tends to be a defensive element and without getting into all of the mechanics, I can tell you that when we're operating with all nine US equity sector signals active, that's a fairly bullish stance. That played well through the end of July. And therefore, a position in gold is unlikely to be justified when you've got that kind of a positive stance on the broad US equity market. Clearly today that's not the case and I know everybody's been focusing on the upward trend in gold where it continues to reach new highs, but if you actually look at the percentage change up until the last couple weeks, it really hasn't been that dramatic. So although it was a positive investment for calendar year 2011, so was US equities, so was international equities. And, again, the dynamic's changing here fairly recently and I think over the next several weeks you're going to be seeing some pretty major portfolio changes certainly profile changes within the AlphaSector suite of portfolios.

John: Any other questions, please?

Q: I have a question. Howard, can you just give us a quick review of which segments are on and which are off?

A: Well, we don't provide live updates on that. So what I can tell you is over the weekend, one of the nine sectors turned off. We'd had a fully-invested, in other words, all nine US sectors had been on for the majority of the last certainly four or five months. One sector turned off this weekend and that's being reflected in the portfolios today. But from a variety of disclosure constraints that I'm under, I can't really share which one that is.

I will also tell you that international equities have not changed profile recently but I do anticipate that changing over the coming weeks. The one sector that turned off has been, we've mentioned in prior dialogues, that there's been two or three of the sectors that've been the weakest: Technology, Financials, and Industrials and it is one of those three but unfortunately I'm not at liberty to share the specifics.

Any other questions we might have?

Q: I have one. You commented about the performance of the market versus your product for the 2000 downturn and the 2008 downturn. Could you repeat those numbers, please?

A: Sure. In 2002 the S&P was down 22%. And the AlphaSector Premium Index was up 5%. In 2008 the S&P on a total return basis was down 37%, and we were down as an index 1.9%.

Q: Thank you.

A: My pleasure.

John, any more questions, or should we just make sure everybody tries to go to your website and will be able to get the special market update being released later today?

John: We'll certainly get that out to everybody. In addition, tomorrow I will send out an email that will give you a link to the replay of this call so if you missed part of it or you want to go back over it, we'll have that available. I want to thank everybody very much for their time. If you have any questions at all, please don't hesitate to get in touch with us at Navellier.

Have a great day. Thank you and thank you, Howard.

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EXHIBIT 7

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EXHIBIT 30

[redacted]

From: Cheryl Czyz <Cheryl_Czyz@navellier.com>
Sent: Thursday, September 01, 2011 4:09 PM
To: Rickaway, Matthew
Subject: Vireo Webinar Replay
Attachments: master slides.pdf

Hi Mr. Rickaway,

Attached are the webinar slides, which you can open and follow along with the audio link below. I hope you find the webinar helpful, but please let me know if you have any additional questions.

Thank you. Have a great day.

Listen to the webinar:
http://www.navellier.com/downloads/webinar%206-21-2011.mp3

Cheryl

Cheryl Czyz
Marketing Associate-Central Division

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AlphaSector Allocator Premium Index is designed to consistently outperform the Dow Jones Moderate Global Index and outperform cash

- Quality downside risk management, especially in weak markets
- Powerful but simple story, and uses **NO** derivatives, leverage, or shorting

AlphaSector Allocator Premium Index Performance
Apr 2001 – Mar 2011

As of Mar 2011

	AlphaSector Allocator Premium Index (Pure Gross)	DJ Moderate Global
Cumulative Return	257.6%	96.8%
1 Yr Return	12.7%	13.4%
3 Yr Return (Annualized)	15.7%	4.7%
5 Yr Return (Annualized)	14.7%	5.0%
Maximum Drawdown	-8.2%	-35.1%
Standard Deviation	7.3%	10.8%
Annualized Excess Return	6.6%	N/A
Alpha	9.9%	N/A
R-Squared	51%	N/A
Beta	0.5%	N/A
5 Yr Up Capture Ratio	100%	N/A
5 Yr Down Capture Ratio	39%	N/A

For Financial Consultant One-on-One Use Only Source: Zephyr StyleAdvisor, F-Squared Investments, Inc. Performance results presented herein do not necessarily indicate future performance. **Investment in equity strategies involves substantial risk and has the potential for partial or complete loss of funds invested.** Results presented include reinvestment of all dividends and other earnings. Please read important disclosures at the end of this presentation.

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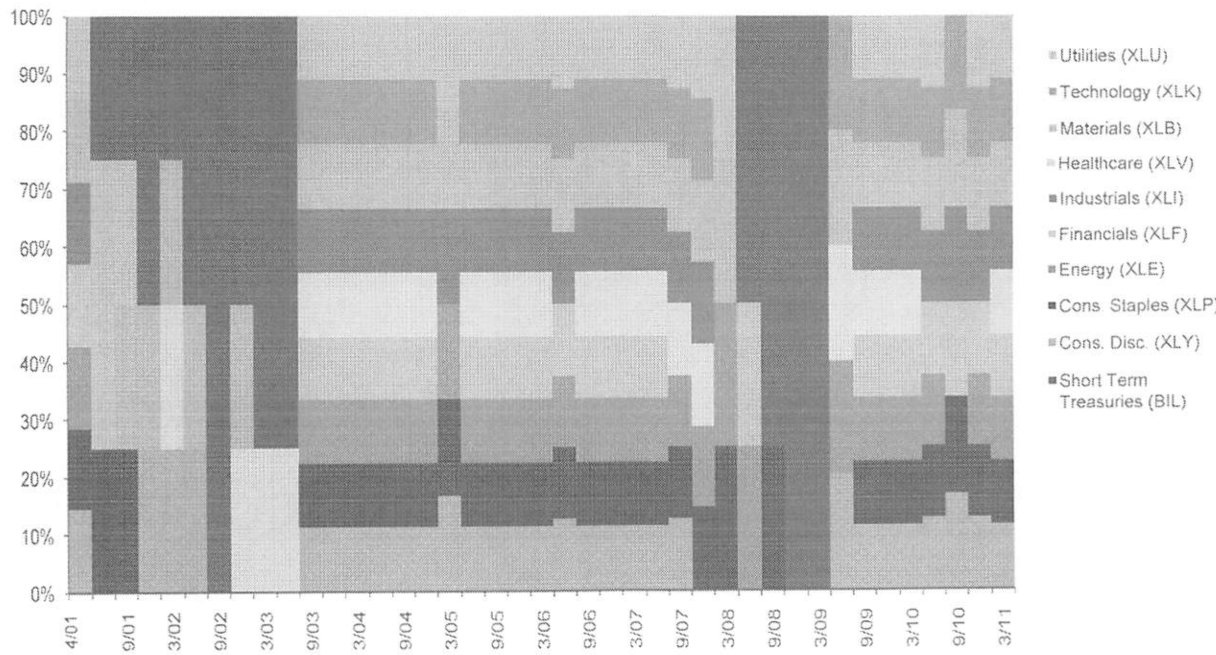
AlphaSector Premium includes or excludes sectors in the portfolio through disciplined re-allocation and diversification



Note periods where the Index goes to cash: (BIL)

For Financial Consultant One-on-One Use Only. April 2001 to March 2011. Source: Morningstar, F-Squared Investments. Patents pending. Performance results presented herein do not necessarily indicate future performance. **Investment in equity strategies involves substantial risk and has the potential for partial or complete loss of funds invested.** Results presented include reinvestment of all dividends and other earnings. Please read important disclosures at the end of this presentation

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Important Disclosures

Navellier Vireo AlphaSector Allocator Premium is a new strategy that attempts to track an index known as the AlphaSector Allocator Premium Index, owned and published by Active Index Solutions, LLC ("AIS"). The AlphaSector Allocator Premium Index is a quantitatively driven index that applies a weekly trading protocol to nine Select Sector SPDRs, a Treasury exchange traded fund, two international ETFs, five fixed income ETFs, and three "alternative" ETFs (please refer to slide 10 in this presentation). There is no guarantee that the advisor will be successful in achieving returns similar to the AlphaSector Allocator Premium Index, and in fact, client returns will be significantly lower than the index returns after actual fees are taken into account, including management fees, brokerage or transaction costs, or other administrative or custodian fees a client may incur.

The "U.S. equity sleeve" referenced in the materials refers to the AlphaSector Premium Index, with the strategy that the AlphaSector Premium Index is based on having an inception date of April 1, 2001. The process of converting the active strategy to an index implies that the returns presented, while not back-tested, reflect theoretical performance an investor would have obtained had it invested in the manner shown and does not represent returns that an investor may have actually attained, as an investor cannot invest directly into an index. Theoretical and hypothetical performance have many inherent limitations. The performance is adjusted to reflect the reinvestment of dividends.

AlphaSector Allocator Premium Index is the exclusive property of F-Squared Investments, Inc. and AIS. AIS calculates and publishes the value of the index on a monthly basis. Source: Morningstar Direct. Although AlphaSector Indexes do not short securities nor utilize leverage or derivatives, the ETFs that AlphaSector tracks may make use of such financial instruments or strategies.

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Important Disclosures (cont.)

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The Dow Jones Moderate Global Index is a benchmark that takes 60% of the risk of the global securities market. It is a total returns index that is a time-varying weighted average of stocks, bonds, and cash. The index is the efficient allocation of stocks, bonds, and cash in a portfolio whose semideviation is 60% of the annualized 36-month historic semideviation of the Dow Jones Aggressive Portfolio Index. Stocks are represented by the Dow Jones Aggressive Portfolio Index. Bonds are represented by an equal weighting of the following four bond indexes with monthly rebalancing: BarCap Government Bonds Index, BarCap Corporate Bonds Index, BarCap Mortgage-backed Bonds Index, and BarCap Majors (ex U.S.) Bonds Index. Cash is represented by the 91-Day T-Bill Auction Average. The efficient portfolio is updated monthly.

The S&P 500 Index measures the performance of 500 stocks that are considered to be widely held by Standard & Poors, a division of The McGraw-Hill Companies, Inc., and comprises approximately three-quarters of the total capitalization of companies publicly traded in the United States. The S&P 500 Index is weighted by market value and its performance is thought to be representative of the stock market as a whole. It is reported that over 70% of all U.S. equity funds are tracked by the S&P 500. The index selects its companies based upon their market size, liquidity, and sector. Most of the companies in the index are mid cap or large corporations. This index is composed of 400 industrial, 20 transportation, 40 utility, and 40 financial companies. Many experts consider the S&P 500 one of the most important benchmarks available to judge overall U.S. market performance.

Presentation of Index data does not reflect a belief by Navellier that any stock index constitutes an investment alternative to any Navellier equity strategy presented in these materials, or is necessarily comparable to such strategies and an investor cannot invest directly in an index. Among the most important differences between the Indices and Navellier strategies are that the Navellier equity strategies may (1) incur material management fees, (2) concentrate investments in relatively few ETFs, industries, or sectors, (3) have significantly greater trading activity and related costs, and (4) be significantly more or less volatile than the Indices.

Potential investors should consult with their financial advisor before investing in any Navellier Investment Product. Investment in equity strategies involves substantial risk and has the potential for partial or complete loss of funds invested.

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NAVELLIER VIREO ALPHASECTOR ALLOCATOR PREMIUM WRAP COMPOSITE

Reporting Currency U.S. Dollar | March 31, 2011

Year	Firm Assets ($M)	Composite Assets ($M)	Percentage of Firm Assets	Number of Accounts	Composite Pure Gross Return (%)	Composite Net Return (%)	DJ Moderate Global Index Return (%)	Composite Dispersion (%)
2010[1]	2,365	73	3%	358	12.53	10.75	13.87	N/A[2]

[1]Performance calculations for the period ended December 31, 2010 only includes 10 months of history.

[2]N/A information is not statistically meaningful due to an insufficient number of portfolios in the composite for the entire year

1. Compliance Statement – Navellier & Associates, Inc. claims compliance with the Global Investment Performance Standards (GIPS®) and has prepared and presented this report in compliance with GIPS standards. Navellier & Associates, Inc. has been independently verified for the periods January 1, 1995 through September 30, 2009 by Ashland Partners & Company LLP. A copy of the verification report is available upon request. Verification assesses whether (1) the firm has complied with all the composite construction requirements of the GIPS standards on a firm-wide basis and (2) the firm's policies and procedures are designed to calculate and present performance in compliance with the GIPS standards. Verification does not ensure the accuracy of any specific composite presentation.

2. Definition of Firm - Navellier & Associates, Inc. is a registered investment adviser established in 1987. Navellier & Associates, Inc. manages a variety of equity assets for primarily U.S. and Canadian institutional and retail clients.

3. Composite Description - The Navellier Vireo AlphaSector Allocator Premium Wrap Composite includes all discretionary Navellier Vireo AlphaSector Allocator Premium equity accounts that are charged a wrap fee and are managed with similar objectives for a full month, including those accounts no longer with the firm. The strategy attempts to track an index known as the AlphaSector Allocator Premium Index and Navellier & Associates, Inc. pays a licensing fee to F-Squared Investments, Inc. to provide a model of the index. Thirty-six percent of the index consists of the AlphaSector Premium Index, 30% consists of the AlphaSector Fixed Income Index, 24% consists of the AlphaSector International Index, and 10% consists of the AlphaSector Alternatives Premium Index. The AlphaSector Premium Index is quantitatively driven and applies a weekly trading protocol to nine Select Sector SPDRs and an exchange traded fund (ETF) representing 1-3 month Treasuries. The index has the potential to be invested in any combination of the nine SPDRs including all nine at the same time, a combination of sector SPDRs and the Treasury ETF, or can be 100% invested in the Treasury ETF. The AlphaSector Fixed Income Index is quantitatively driven and applies a weekly trading protocol to four fixed income ETFs along with a 7-year Treasury ETF. The index has the potential to be invested in a combination of the four fixed income ETFs and the Treasury ETF or can be 100% invested in the Treasury ETF. The AlphaSector International Index is quantitatively driven and applies a weekly trading protocol to two international equity ETFs, representing developed international markets and emerging markets, along with a 1-3 month Treasury ETF. The index has the potential to be invested in a combination of the two international ETFs, a combination of the international ETFs and the Treasury ETF, or can be 100% invested in the Treasury ETF. The AlphaSector Alternatives Index is quantitatively driven and applies a weekly trading protocol to two alternative ETFs, representing real estate and gold, and either an S&P 500 ETF or a 1-3 month Treasury ETF. The index has the potential to be invested in a combination of the alternative ETFs or a combination of the alternative ETFs and the S&P 500 ETF or the 1-3 month Treasury ETF if the AlphaSector Premium Index has any exposure to the Treasury ETF. There is no guarantee that Navellier will achieve returns similar to the index, and in fact the strategy's returns may vary from the index due to the timing of trades and after fees are taken into account, including management fees, brokerage or transactions costs, or other administrative or custodian fees. Performance is calculated on a "time-weighted" and "asset-weighted" basis. Performance figures that are net of fees take into account advisory fees and any brokerage fees or commissions that have been deducted from the account. Gross-of-fees returns reflect the deduction of transaction costs/commissions, but do not reflect the deduction of any investment management fees. Therefore, actual returns will be reduced by advisory and other expenses incurred. Performance results include the reinvestment of any dividends. The composite was created January 1, 2010. As of October 2010, the Navellier Vireo AlphaSector AllWeather Premium Wrap Composite has been renamed the Navellier Vireo AlphaSector Allocator Premium Wrap Composite. Valuations and returns are computed and stated in U.S. Dollars. Portfolio valuation sources are IDC, Factset, and Thompson. Performance is calculated using the "Modified Dietz Method." Policies for valuing portfolios, calculating performance, and preparing compliant presentations are available upon request.

4. Management Fees - The management fee schedule for accounts ranges from 75 to 100 basis points, depending on account size and brokerage selected. Some incentive fee, fixed fee, and fulcrum fee accounts may be included. Fees are negotiable, and not all accounts included in the composite are charged the same rate. Bundled fee accounts make up 100% of the composite for all periods shown. Fee schedules are provided by independent sponsors and are available upon request from the respective sponsor. The bundled fees include custody, trading expenses, and other expenses associated with the management of the account. The client is referred to the firm's Form ADV Part II for a full disclosure of the fee schedule.

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5. Composite Dispersion - If applicable, the dispersion of annual returns is measured by the standard deviation across asset-weighted portfolio returns represented within the composite for the full year.

6. Benchmark - The Dow Jones Moderate Global Index is a benchmark that takes 60% of the risk of the global securities market. It is a total returns index that is a time-varying weighted average of stocks, bonds, and cash. The index is the efficient allocation of stocks, bonds, and cash in a portfolio whose semideviation is 60% of the annualized 36-month historic semideviation of the Dow Jones Aggressive Portfolio Index. Stocks are represented by the Dow Jones Aggressive Portfolio Index. Bonds are represented by an equal weighting of the following four bond indexes with monthly rebalancing: BarCap Government Bonds Index, BarCap Corporate Bonds Index, BarCap Mortgage-backed Bonds Index, and BarCap Majors (ex U.S.) Bonds Index. Cash is represented by the 91-Day T-Bill Auction Average. The efficient portfolio is updated monthly. The secondary benchmark for the composite is the S&P 500 Index, which measures the performance of the 500 leading companies in leading industries of the U.S. economy, focuses on the large cap segment of the market, with approximately 75% coverage of U.S. equities. The returns for the S&P 500 Index include the reinvestment of any dividends. The asset mix of the composite may not be precisely comparable to the presented indices. Presentation of index data does not reflect a belief by the Firm that the Dow Jones Moderate Global or S&P 500 indices, or any other index, constitutes an investment alternative to any investment strategy presented in these materials or is necessarily comparable to such strategies.

7. General Disclosure - The three-year annualized standard deviation is not presented because 36 months of history is not available. Actual results may differ from composite results depending upon the size of the account, custodian related costs, the inception date of the account and other factors. ***Performance results presented herein do not necessarily indicate future performance. Investment in equity strategies involves substantial risk and has the potential for partial or complete loss of funds invested. Results presented include reinvestment of all dividends and other earnings.*** The securities identified and described do not represent all of the securities purchased, sold, or recommended for client accounts. The results presented were generated during a period of improving and deteriorating economic conditions in the U.S. and both positive and negative market performance. There can be no assurance that these favorable market conditions will occur again in the future. Navellier has no data regarding actual performance in different economic or market cycles or conditions. It should not be assumed that any securities recommendations made by Navellier in the future will be profitable or equal the performance of securities made in this request. For a list of recommendations made by Navellier & Associates, Inc. for the preceding twelve months or to receive a complete list and description of Navellier & Associates, Inc.'s investment composites, contact Tim Hope at (800) 365-8471, extension 416, or write to Navellier & Associates, Inc., One East Liberty, 3rd Floor, Reno, NV 89501, or e-mail timh@navellier.com.

All Information contained herein is stated as of the date referenced at the top of this page unless indicated otherwise. Past performance is no guarantee of future results.

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EXHIBIT 8

EXHIBIT 31

[redacted]

From: Seth Lee <seth_lee@navellier.com>
Sent: Thursday, June 21, 2012 1:43 PM
To: Daniells, Preston
Subject: AlphaSector Premium
Attachments: Premium033112slick.pdf; Vireo ASPremium commentary 033112.pdf; Vireo AS Premium Commentary 123111.pdf

Fact sheet, Q1 2012 commentary, & end of year 2011 commentary

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It is the responsibility of the Financial Advisor to submit any materials intended for client use to the proper compliance channels for approval prior to distribution.

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AlphaSector 1Q
Index 2012

SUPPLEMENTAL INFORMATION

Overview

- The first quarter of 2012 witnessed the best quarterly performance by the market, as measured by the S&P 500 Index, in 14 years. To put the S&P 500's 12.6% quarterly return into perspective, it would translate on a compounded basis to an amazing annualized return of 60.8%. Further, the 12.6% gain ranked among the best handful of all rolling 90-day periods over the past decade, placing it above 94% of all other rolling 90-day periods in the past 11 years.
- Equity volatility levels, as measured by F-Squared's proprietary models, were markedly lower than in 2011, which is a positive sign for the markets. The S&P 500 had a loss of more than 1% only one day in the quarter (March 6th), as compared to an average of 12 days for each of the past four quarters.
- As to be expected in such an extreme upward move for the market coming on the heels of a period of high risk (August 2011 – December 2011), the AlphaSector Premium Index ("AlphaSector Index") lagged. While the AlphaSector Index gained a healthy 8.7% (pure gross; 7.9% net) for the quarter, the gain represented only 69% of the upside performance of the S&P 500 Index. By way of reference, during those rare times when the S&P 500 gained more than 12% for a rolling 90 day period, the average up capture ratio of AlphaSector Index was 64%.

Market Environment

There were a number of factors behind the strong equity market advance, including the absence of material negative news from Europe, a gradually declining unemployment rate in the US (new unemployment claims dropped to a four-year low), and improving investor sentiment. Even the housing industry posted some encouraging signs. Still, all was not rosy on the economic front, as the related factors of a three-year high in the US trade deficit and higher prices at the pump dampened some investors' enthusiasm.

An "Off the Charts" Quarter for the S&P 500

One of Vireo's key mantras is that we are not benchmark-centric. Instead, we are client-centric, meaning that we align the goals of the investment process with the goals of the client. We are more focused on seeking to avoid loss for our clients (minimizing drawdowns) than "tracking-error" versus a benchmark. As straightforward and intuitive as this sounds, most of our large cap core competitors in the equity area are in fact benchmark-centric – and therefore hew closely to the relevant benchmark. As 2002 (S&P 500 -22%) and 2008 (S&P 500 -37%) taught us, low tracking error can be a risky pursuit. But in the first quarter of 2012, benchmark-centric, low tracking error managers had their day (or 90 days) in the sun.

Performance Review[1] – Q1 2012

As recently as mid-December 2011, the AlphaSector Index had a very bearish positioning and 50% cash weighting. By the beginning of January, the Index had progressed to a fully invested positioning in the equity market, with five sectors active. As the first quarter progressed, the increasingly positive tone of the market was reflected in the model, and by quarter's end, six sectors were on and two more were very close to engaging.

The strong market benefitted just about all sectors, with utilities the only sector declining in the quarter, down 1.65% after a 2011 in which utilities was the best performing sector of the S&P 500. Financials exhibited the strongest move, up 22.0%, followed closely by technology, which posted an 18.8% advance. Utilities has been a mainstay of the portfolio throughout the past year – in fact it is one of only two sectors (with consumer staples the other) that have stayed on for over a year. While detracting from performance in the first quarter, utilities has been a solid core holding over the past year. The absence of financials in the portfolio also hurt relative performance in the quarter, but the quantitative engine will not signal a re-engagement in the sector until it discerns that stability has returned. A similar pattern was evidenced in the 2008-2009 bear market. After the financials sector was turned off in mid-2007, it was not added back into the AlphaSector Index until May 2009 – about 60 days after that sector had bottomed.

[1] *Performance is proxied by the relevant SPDR ETF*

Outlook

Because all of the analysis that is done for the portfolios is quantitatively-based and all of the data is historical in nature, we do not make formal projections or outlook statements. However, some potential insight can be gained by looking at trends in volatility and overall positioning.

With lower volatility than we saw in 2011, US and international equity markets surged in the first quarter of 2012. The US market witnessed broad participation among the nine sectors with only utilities posting a decline. The signals generated by our quantitative engine have become progressively more bullish since the closing months of 2011.

There are many positive signs on the investment landscape, and the quantitative engine has adapted to reflect this. However, it is also important to note that early March marked the three-year anniversary of the market bottom – the S&P 500 Index is up over 20% per annum in this period – about double the historical average for this Index. While we are not market prognosticators, we do know that markets move in cycles and having a "tool in your toolbox" for the bear phases of the market is of paramount importance. Vireo is such a tool – a time-tested quantitative engine that has the ability to move to cash in a toxic market environment. We employed this tool in 2002 and 2008 and as recently as last August. While we currently see no reversal of the bullish trend, it's helpful to remember that the F-Squared quantitative engine can pivot fairly quickly. At the end of last July, we had all nine US sectors engaged – but by the beginning of September, the portfolio had an allocation to cash and seven sectors off. Market tone can change, and our model will adapt to that change as we seek to protect down, participate up.

The comments and opinions outlined in the first quarter commentary consider market conditions and index performance as of March 31, 2012. In light of the fact that as of this printing market conditions may have changed dramatically, we encourage our readers to check the Vireo website at www.vireoinvestments.com for the most up-to-date news and opinions.

Important Disclosures

ALPHASECTOR INDEX: Vireo Premium attempts to track an index known as the AlphaSector Premium Index ("Index"), owned and published by Active Index Solutions, LLC ("AIS"). The AlphaSector Premium Index is a quantitatively driven index that applies a weekly trading protocol to nine Select Sector SPDRs and an exchange traded fund ("ETF") representing 1-3 month Treasuries (ticker BIL). Note that the Vireo Premium accounts managed by the adviser may invest in a cash equivalent, such as money market funds, in place of BIL. The Index has the potential to be invested in any combination of the nine SPDRs including all nine at the same time, a combination of sector SPDRs and the Treasury ETF, or can be 100% invested in the Treasury ETF. There is no guarantee that the adviser will be successful in achieving returns similar to the AlphaSector Premium Index, and in fact client returns will be significantly lower than the Index returns after fees are taken into account, including management fees, brokerage or transaction costs, or other administrative or custodian fees a client may incur. One cannot directly invest in an index. Index returns presented represent past performance and are not a guarantee of future results or indicative of any specific investment.

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As a matter of normal and important disclosures to you, as a potential investor, please consider the following. Some of the returns presented reflect hypothetical performance an investor would have obtained had it invested in the manner shown and does not represent returns that an investor actually attained. Hypothetical backtested performance has many inherent limitations. The Index should be considered as Model Portfolio results and are mere "paper" or proforma performance results. There are material differences between Vireo Investment Product portfolios and the Index, research, and performance figures presented here. The Index and the research results (1) may contain stocks that are illiquid and difficult to trade; (2) may contain ETF holdings materially different from actual funded Vireo Investment Product portfolios; and (3) may not reflect prices obtained in an actual funded Vireo Investment Product portfolio.

As a matter of important disclosure regarding the hypothetical results presented in the accompanying charts and graphs, the following factors must be considered when evaluating the performance figures presented:

1) Historical or illustrated results presented herein do not necessarily indicate future performance; Investment in securities involves significant risk and has the potential for partial or complete loss of funds invested.

2) The results presented were generated during a period of mixed (improving and deteriorating) economic conditions in the U.S. and positive and negative market performance. There can be no assurance that the favorable market conditions will occur again in the future. Navellier has no data regarding actual performance in different economic or market cycles or conditions.

3) The results portrayed reflect the reinvestment of dividends and other income.

4) LIMITATIONS INHERENT IN HYPOTHETICAL RESULTS: The performance results presented are from an Index, not an actually funded portfolio, and may not reflect the impact that material economic and market factors might have had on the adviser's decision-making if the adviser were actually managing clients' money, and thus present returns which are greater than what a potential investor would have experienced for the time period. The results are presented for informational purposes only. No real money has been invested in this Index. The Index performance results should be considered mere 'paper' or pro forma performance results. The Index results do not represent actual funded trades and may not reflect actual prices paid or received for actual funded trades.

5) The reported performances of Indexes presented in the accompanying charts and graphs do not reflect the performance results of Navellier's actually funded and traded Investment Products.

6) In most cases, the adviser's clients' investment results would be materially lower than the results portrayed in the Index.

7) The Index results may or may not relate, or only partially relate, to the type of advisory services currently offered by Navellier & Associates, Inc.

Navellier does not calculate the statistical information included herein. This material has been prepared solely for informative purposes. F-Squared is the source of all performance data related to the F-Squared AlphaSector Indexes cited in these reports. Although information contained herein is based on sources Navellier believes to be reliable, Navellier does not guarantee its accuracy, and the information may be incomplete or condensed. Statistical analyses of the data presented are provided by Zephyr Associates, a company not related to Navellier. Information presented herein and the related Zephyr sourced information is provided on an "as is" basis. The user assumes the entire risk of any use made of this information. Investors should consider the report as only a single factor in making their investment decision. The report is for informational purposes only and is not intended as an offer or solicitation for the purchase or sale of a security. Zephyr sourced information is the exclusive property of Zephyr Associates. Without prior written permission of Zephyr Associates, this information may not be reproduced, disseminated, or used to create any financial products.

The results portrayed include investment advisory fees paid to the adviser equal to 1.25% plus an estimated custodian/brokerage fee to account for transaction/brokerage costs equal to 1.75%, for total fees equal to 3.00%. The adviser believes these fees represent the highest fees a client may incur with a brokerage firm or other financial intermediary. However, it may be that some financial intermediaries charge fees greater than the adviser is aware of. The pure gross results portrayed do not include any investment advisory fees, administrative fees, or transaction expenses, or other expenses that a client would have paid or actually paid. The fees reflected in the net performance figures in this presentation may not include administrative fees, or transaction expenses, or other expenses that a client would have paid or actually paid. The fees may also vary depending on the account size and estimated trading costs will be greater for smaller accounts. The ETFs invested in the model portfolios have their own expenses that are included in the gross and net returns presented.

The S&P 500 Index measures the performance of 500 stocks that are considered to be widely held by Standard & Poors, a division of The McGraw-Hill Companies, Inc., and comprises approximately three-quarters of the total capitalization of companies publicly traded in the United States. The S&P 500 Index is weighted by market value and its performance is thought to be representative of the stock market as a whole. It is reported that over 70% of all U.S. equity funds are tracked by the S&P 500. The index selects its companies based upon their market size, liquidity, and sector. Most of the companies in the index are mid cap or large corporations. This index is composed of 400 industrial, 20 transportation, 40 utility, and 40 financial companies. Many experts consider the S&P 500 one of the most important benchmarks available to judge overall U.S. market performance. Presentation of index data does not reflect a belief by Navellier that any stock index constitutes an investment alternative to any Navellier equity strategy presented in these materials, or is necessarily comparable to such strategies and an investor cannot invest directly in an index. Among the most important differences between the indexes and Navellier strategies are that the Navellier equity strategies may (1) incur material management fees, (2) concentrate investments in relatively few ETFs, industries, or sectors, (3) have significantly greater trading activity and related costs, and (4) be significantly more or less volatile than the indexes. All indexes are unmanaged and performance of the indices includes reinvestment of dividends and interest income, unless otherwise noted, is not illustrative of any particular investment and an investment cannot be made in any index.

Potential investors should consult with their financial adviser before investing in any Navellier Investment Product.

About Vireo

800.887.8671

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Reno, Nevada 89501

Vireo Portfolio Sponsor

Navellier & Associates

Model Portfolio Management

F-Squared Investments/Active Index Solutions, LLC

Benchmark: S&P 500 Index

Objective: The Vireo Premium Portfolio seeks to limit losses during severe market downturns while fully participating in up markets.

Investment Process: The Vireo Premium Portfolio utilizes a highly disciplined, quantitative process to assess forward-looking risk across all major asset classes. Using widely available ETFs, the portfolio will re-allocate between individual sectors and asset classes whenever the risk is deemed too great. When conditions warrant, the portfolio can go to cash.

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AlphaSector Premium Index 4Q 2011

SUPPLEMENTAL INFORMATION

AlphaSector™ strategies protected investors from extreme volatility while delivering market-level returns during turbulent 2011

Key takeaways:

- Volatility dominated the markets in 2011, and in response the AlphaSector strategies adapted to market conditions by aggressively "de-risking." AlphaSector Premium Index reduced overall volatility by 43% versus that of the S&P 500 in 2011.
- AlphaSector Premium Index returned 1.7% for the year, lagging the S&P 500's modest 2.1% gain by only 40bp.

Sustained Market Volatility was the major challenge to investors in 2011

In the equity markets, 2011 may have ended nearly flat, but investors experienced an uncomfortable up-and-down ride. Volatility rattled the markets, especially in the second half of the year:

- The first quarter of 2011 was the **best Q1** *since 1998* for the S&P 500 TR Index. The third quarter was the **worst Q3** *since 2008*.
- The VIX reached a high of 30 or more during twenty weeks in 2011, a level of volatility exceeded in only two periods since 1989: the 2002 and 2008-2009 market crashes.
- Between August 1 and December 1, the S&P 500 saw **eight declines of 5% or more and eight advances of 5% or more**. The total of sixteen such movements means that, on average, big swings were a weekly occurrence.

The headlines echoed the market swings and added to investor uncertainty. Stories on the sluggish economy at home and abroad, US government deficits, and the Euro credit crisis added to investor uncertainty. Investors responded to the heightened risk: according to *Morningstar*, US stock mutual funds lost $101 Billion during 2011, the worst year since 2008.

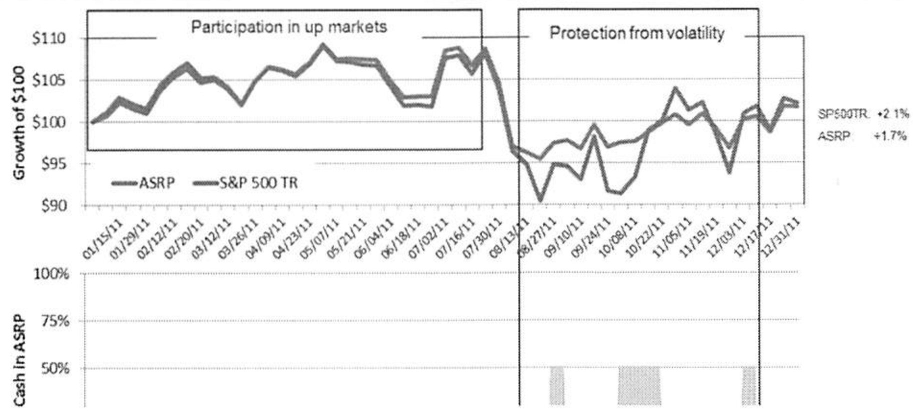
Although the S&P 500 TR Index advanced 2.1% for the full year 2011, that seemingly dull outcome conceals a year of volatility and anxiety for most investors.

The AlphaSector strategies protected clients from the worst of market volatility

A key aspect of the value proposition of AlphaSector is the ability to "***de-risk the portfolio***" in volatile and negative markets. In an extended bear market, as in 2008-2009, the goal is to reduce capital loss. In periods of up-and-down swings such as 2011, the dual objectives are to 1) position the portfolio defensively to move quickly to cash if the markets deteriorate significantly, and 2) to reduce volatility and its negative impact on clients.

The AlphaSector Premium Index achieved that objective, as the following chart shows:

When the S&P 500 Total Return Index (red line) showed extreme volatility, the AlphaSector Premium Index (blue line), provided a smoother ride for investors and yet delivered virtually identical returns.



Source: Morningstar, F-Squared Investments

- When volatility spiked in late July and August, ***the AlphaSector Premium Index reduced exposure to the most volatile sectors and assumed a defensive part-cash position.*** Cash remained in the portfolio, at 25% or 50% weighting, into early December.
- The AlphaSector Premium Index ended 2011 with a one-year return of 1.7% versus 2.1% for the S&P 500 Total Return Index. AlphaSector Premium therefore came within 42 basis points of the S&P return, ***but AlphaSector had 43% less volatility for the year than the S&P.*** Standard Deviation for 2011 was 9.1% for AlphaSector Premium versus 15.9% for the S&P 500.
- Using Morningstar's U.S. Large Blend Funds as a peer group, the AlphaSector Premium Index outperformed the 1.5% return threshold for Top Quartile performance and strongly exceeded the -1.2% return of the Peer Group Average. *Note: as an index, AlphaSector Premium does not reflect expenses.**

**Source: Zephyr StyleADVISOR, Morningstar Large Blend Universe. The AlphaSector Premium Index ranked 413 out of 1,821 managers for the 1-year period ending December 31, 2011.*

Delivering on the real needs of investors:

- Most investors experienced 2011 as a very rough ride. They needed protection from volatility, which can create anxiety and weaken commitment to investment plans.
- AlphaSector delivered a measurably smoother, less volatile investing experience in 2011. For advisors, this can help you keep clients on track, preserving your time to build their portfolios and your practice.

See Important Disclosures below.

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Investment products that may be based on AlphaSector Indexes are not sponsored by F-Squared, and F-Squared does not make any representation regarding the advisability of investing in them. F-Squared serves as the model provider to various investment advisers and does not provide investment advice to any managed account clients, nor will it be a party to any client agreements. There is no guarantee that an investor's account will achieve its objectives or avoid losses. Inclusion of a mutual fund or an exchange traded fund in an index does not in any way reflect an opinion of F-Squared regarding the investment merits of such a fund, nor should it be interpreted as an offer of such a fund's securities. None of the mutual funds or exchange traded funds included in an index has given any real or implied endorsement or support to F-Squared or to this index. One cannot invest directly in an index.

The AlphaSector Premium Index is based on an active strategy with an inception date of April 1, 2001. Inception date is defined as the date as of which investor assets began tracking the strategy. The process of converting the active strategy to an index implies that the returns presented, while not backtested, reflect theoretical performance an investor would have obtained had it invested in the manner shown and does not represent returns that an investor actually attained, as investors cannot invest directly in an index. No representation is being made that any client will or is likely to achieve results similar to those presented herein.

Theoretical and hypothetical performance has certain inherent limitations. Backtested results in general also are subject to the fact that they have been prepared with the benefit of hindsight and reflect certain assumptions, including those described below or in the attached presentation. No representation or warranty is made to the reasonableness of the assumptions made or that all assumptions used to construct the performance provided have been stated or fully considered. To the extent that the assumptions made do not reflect actual conditions, the illustrative value of the hypothetical results will decrease. The hypothetical results shown may under or over compensate for the impact of actual market conditions and other factors such as expenses.

The results shown do not reflect the deduction of any advisory fees or expenses, nor trading costs, both of which will decrease the return experienced by a client. The performance is adjusted to reflect the reinvestment of dividends. The fees and anticipated expenses will be specified in each client agreement. F-Squared's fees will be made available upon request and are disclosed in its publicly-available Form ADV Part 2A.

The AlphaSector Premium Index was constructed to reflect the intended portfolio composition for client accounts that will trade utilizing the Index as its Model Portfolio. It is an index of sector-based ETFs and an ETF that reflects short-term Treasury securities. It is based on an active strategy with an inception date of April 1, 2001.

The S&P 500 Index is a broad-based unmanaged index of 500 stocks, which is widely recognized as a representative of the equity market in general.

None of the indices referred to herein reflect the deduction of the fees and expenses to be borne by a client, whose managed account may trade and invest in different financial instruments than those in a particular index. Concentration, volatility and other risk characteristics of a client's account also may differ from the indices shown herein. Index data is provided only for reference purposes and is not intended to suggest that any client will achieve performance similar to, or better than, an index.

F-Squared Investments, Inc. is the source and the owner of the AlphaSector Premium Index and its performance information. AlphaSector is a service mark of F-Squared Investment Management, LLC, and is used with permission.

The peer group is comprised of all open end mutual funds tracked by Morningstar that, according to Morningstar, meet the listed investment category and was selected as a relevant comparison due to the similarity in investment objective of the profiled F-Squared index.

Past performance is no guarantee of future results.

Sources: Morningstar, NASDAQ OMX, F-Squared Investments

A definition of all standard terms used in this presentation can be found at www.morningstar.com.

All information in this presentation is the property of F-Squared Investments.

The comments and opinions outlined in the third quarter commentary consider market conditions and index performance as of December 31, 2011. In light of the fact that as of this printing market conditions may have changed dramatically, we encourage our readers to check the Vireo website at www.vireoinvestments.com for the most up to date news and opinions.

Important Disclosures

ALPHASECTOR PREMIUM INDEX:

Vireo AlphaSector Premium attempts to track an index known as the AlphaSector Premium Index ("Index"), owned and published by Active Index Solutions, LLC ("AIS"). The AlphaSector Premium Index is a quantitatively driven index that applies a weekly trading protocol to nine Select Sector SPDRs and an exchange traded fund ("ETF") representing 1-3 month Treasuries (ticker BIL). Note that the Vireo AlphaSector Premium accounts managed by the adviser may invest in a cash equivalent, such as money market funds, in place of BIL. The Index has the potential to be invested in any combination of the nine SPDRs including all nine at the same time, a combination of sector SPDRs and the Treasury ETF, or can be 100% invested in the Treasury ETF. There is no guarantee that the adviser will be successful in achieving returns similar to the AlphaSector Premium Index, and in fact client returns will be significantly lower than the Index returns after fees are taken into account, including management fees, brokerage or transaction costs, or other administrative or custodian fees a client may incur. One cannot directly invest in an index. Index returns presented represent past performance and are not a guarantee of future results or indicative of any specific investment.

"AlphaSector" is a service mark of F-Squared Investments, Inc. ("F-Squared"), and AIS. Neither AIS nor F-Squared Investments, Inc. is affiliated with Navellier & Associates, Inc. ("Navellier"). Navellier has entered into a Model Manager Agreement with F-Squared pursuant to which it timely receives any changes made to the AlphaSector Premium Index holdings. Investment products such as the Vireo AlphaSector Premium strategy that are based on the AlphaSector Premium Index are not necessarily sponsored by AIS or F-Squared, and AIS and F-Squared do not make any representation regarding the advisability of investing in them.

As a matter of normal and important disclosures to you, as a potential investor, please consider the following. Some of the returns presented reflect hypothetical performance an investor would have obtained had it invested in the manner shown and does not represent returns that an investor actually attained. Hypothetical backtested performance has many inherent limitations. The Index should be considered as Model Portfolio results and are mere "paper" or proforma performance results. There are material differences between Vireo Investment Product portfolios and the Index, research, and performance figures presented here. The Index and the research results (1) may contain stocks that are illiquid and difficult to trade; (2) may contain ETF holdings materially different from actual funded Vireo Investment Product portfolios; and (3) may not reflect prices obtained in an actual funded Vireo Investment Product portfolio.

As a matter of important disclosure regarding the hypothetical results presented in the accompanying charts and graphs, the following factors must be considered when evaluating the performance figures presented:

1) Historical or illustrated results presented herein do not necessarily indicate future performance; Investment in securities involves significant risk and has the potential for partial or complete loss of funds invested.

2) The results presented were generated during a period of mixed (improving and deteriorating) economic conditions in the U.S. and positive and negative market performance. There can be no assurance that the favorable market conditions will occur again in the future. Navellier has no data regarding actual performance in different economic or market cycles or conditions.

3) The results portrayed reflect the reinvestment of dividends and other income.

4) LIMITATIONS INHERENT IN HYPOTHETICAL RESULTS: The performance results presented are from an Index, not an actually funded portfolio, and may not reflect the impact that material economic and market factors might have had on the adviser's decision-making if the adviser were actually managing clients' money, and thus present returns which are greater than what a potential investor would have experienced for the time period. The results are presented for informational purposes only. No real money has been invested in this Index. The Index performance results should be considered mere 'paper' or pro forma performance results. The Index results do not represent actual funded trades and may not reflect actual prices paid or received for actual funded trades.

5) The reported performances of Indexes presented in the accompanying charts and graphs do not reflect the performance results of Navellier's actually funded and traded Investment Products.

6) In most cases, the adviser's clients' investment results would be materially lower than the results portrayed in the Index.

7) The Index results may or may not relate, or only partially relate, to the type of advisory services currently offered by Navellier & Associates, Inc.

Navellier does not calculate the statistical information included herein. This material has been prepared solely for informative purposes. F-Squared is the source of all performance data related to the F-Squared AlphaSector Indexes cited in these reports. Although information contained herein is based on sources Navellier believes to be reliable, Navellier does not guarantee its accuracy, and the information may be incomplete or condensed. Statistical analyses of the data presented are provided by Zephyr Associates, a company not related to Navellier. Information presented herein and the related Zephyr sourced information is provided on an "as is" basis. The user assumes the entire risk of any use made of this information. Investors should consider the report as only a single factor in making their investment decision. The report is for informational purposes only and is not intended as an offer or solicitation for the purchase or sale of a security. Zephyr sourced information is the exclusive property of Zephyr Associates. Without prior written permission of Zephyr Associates, this information may not be reproduced, disseminated, or used to create any financial products.

The results portrayed include investment advisory fees paid to the adviser equal to 1.25% plus an estimated custodian/brokerage fee to account for transaction/brokerage costs equal to 1.75%, for total fees equal to 3.00%. The adviser believes these fees represent the highest fees a client may incur with a brokerage firm or other financial intermediary. However, it may be that some financial intermediaries charge fees greater than the adviser is aware of. The pure gross results portrayed do not included any investment advisory fees, administrative fees, or transaction expenses, or other expenses that a client would have paid or actually paid. The fees reflected in the net performance figures in this presentation may not include administrative fees, or transaction expenses, or other expenses that a client would have paid or actually paid. The fees may also vary depending on the account size and estimated trading costs will be greater for smaller accounts. The ETFs invested in the model portfolios have their own expenses that are included in the gross and net returns presented.

The S&P 500 Index measures the performance of 500 stocks that are considered to be widely held by Standard & Poors, a division of The McGraw-Hill Companies, Inc., and comprises approximately three-quarters of the total capitalization of companies publicly traded in the United States. The S&P 500 Index is weighted by market value and its performance is thought to be representative of the stock market as a whole. It is reported that over 70% of all U.S. equity funds are tracked by the S&P 500. The index selects its companies based upon their market size, liquidity, and sector. Most of the companies in the index are mid cap or large corporations. This index is composed of 400 industrial, 20 transportation, 40 utility, and 40 financial companies. Many experts consider the S&P 500 one of the most important benchmarks available to judge overall U.S. market performance. Presentation of index data does not reflect a belief by Navellier that any stock index constitutes an investment alternative to any Navellier equity strategy presented in these materials, or is necessarily comparable to such strategies and an investor cannot invest directly in an index.

Among the most important differences between the indexes and Navellier strategies are that the Navellier equity strategies may (1) incur material management fees, (2) concentrate investments in relatively few ETFs, industries, or sectors, (3) have significantly greater trading activity and related costs, and (4) be significantly more or less volatile than the indexes. All indexes are unmanaged and performance of the indices include reinvestment of dividends and interest income, unless otherwise noted, are not illustrative of any particular investment and an investment cannot be made in any index.

Potential investors should consult with their financial adviser before investing in any Navellier Investment Product.

About Vireo

800.887.8671

One East Liberty, Third Floor,
Reno, Nevada 89501

Vireo Portfolio Sponsor

Navellier & Associates

Model Portfolio Management

F-Squared Investments/Active Index Solutions, LLC

Total Product Assets: $41 million

Benchmark: S&P 500 Index

Objective: The Vireo AlphaSector Premium Portfolio seeks to limit losses during severe market downturns while fully participating in up markets.

Investment Process: The Vireo AlphaSector Premium Portfolio utilizes a highly disciplined, quantitative process to assess forward-looking risk across all major asset classes. Using widely available ETFs, the portfolio will re-allocate between individual sectors and asset classes whenever the risk is deemed too great. When conditions warrant, the portfolio can go to cash.

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VIREO
Confidence Rising

VIREO ALPHASECTOR PREMIUM WRAP COMPOSITE

Reporting Currency U.S. Dollar

Year	Firm Assets ($M)	Composite Assets ($M)	Percentage of Firm Assets	Number of Accounts	Composite Pure Gross Return (%)	Composite Net Return (%)	S&P 500 Index Return (%)	Composite Dispersion (%)
2011	2,719	23	<1%	99	3.18	1.15	2.11	0.16
2010[1]	2,365	3	<1%	21	15.00	13.18	15.77	N/A[2]

[1]*Performance calculations for the period ended December 31, 2010 only includes 10 months of history.*
[2]*N/A information is not statistically meaningful due to an insufficient number of portfolios in the composite for the entire year.*

1. Compliance Statement – Navellier & Associates, Inc. claims compliance with the Global Investment Performance Standards (GIPS®) and has prepared and presented this report in compliance with GIPS standards. Navellier & Associates, Inc. has been independently verified for the periods January 1, 1995 through March 31, 2011 by Ashland Partners & Company LLP. Verification assesses whether (1) the firm has complied with all the composite construction requirements of the GIPS standards on a firm-wide basis and (2) the firm's policies and procedures are designed to calculate and present performance in compliance with the GIPS standards. The Vireo AlphaSector Premium Wrap Composite has been examined for the periods March 1, 2010 through March 31, 2011. The verification and performance examination reports are available upon request.

2. Definition of Firm - Navellier & Associates, Inc. is a registered investment adviser established in 1987. Navellier & Associates, Inc. manages a variety of equity assets for primarily U.S. and Canadian institutional and retail clients. The firm's list of composite descriptions as well as information regarding the firm's policies for valuing portfolios, calculating performance, and preparing compliant presentations are available upon request.

3. Composite Description - The Vireo AlphaSector Premium Wrap Composite includes all discretionary Vireo AlphaSector Premium equity accounts that are charged a wrap fee and are managed with similar objectives for a full month, including those accounts no longer with the firm. The strategy attempts to track an index known as the AlphaSector Premium Index ("Index"). Navellier & Associates, Inc. pays a licensing fee to F-Squared Investments, Inc. to provide a model of the Index. The Index is quantitatively driven and applies a weekly trading protocol to nine Select Sector SPDRs and an exchange traded fund ("ETF") representing 1-3 month Treasuries. Note that the Vireo AlphaSector Premium accounts managed by Navellier & Associates, Inc. may invest in a cash equivalent, such as money market funds, in place of the 1-3 month Treasury ETF. The index has the potential to be invested in any combination of the nine SPDRs including all nine at the same time, a combination of sector SPDRs and the Treasury ETF, or can be 100% invested in the Treasury ETF. There is no guarantee that Navellier will achieve returns similar to the index, and in fact the strategy's returns may vary from the index due to the timing of trades and after fees are taken into account, including management fees, brokerage or transactions costs, or other administrative or custodian fees. Performance is calculated on a "time-weighted" and "asset-weighted" basis. Performance figures that are net of fees take into account advisory fees and any brokerage fees or commissions that have been deducted from the account. "Pure" gross-of-fees returns do not reflect the deduction of any trading costs, fees, or expenses, and are presented only as supplemental information. Performance results are total returns and include the reinvestment of all income, including dividends. The composite was created March 1, 2010. As of April 2011, the Navellier Vireo AlphaSector Premium Wrap Composite has been renamed the Vireo AlphaSector Premium Wrap Composite. Valuations and returns are computed and stated in U.S. Dollars.

4. Management Fees - The management fee schedule for accounts ranges from 75 to 100 basis points, depending on account size and brokerage selected. Some incentive fee, fixed fee, and fulcrum fee accounts may be included. Fees are negotiable, and not all accounts included in the composite are charged the same rate. Bundled fee accounts make up 100% of the composite for all periods shown. Fee schedules are provided by independent sponsors and are available upon request from the respective sponsor. The bundled fees include custody, trading expenses, and other expenses associated with the management of the account. The client is referred to the firm's Form ADV Part 2A for a full disclosure of the fee schedule.

5. Composite Dispersion - If applicable, the dispersion of annual returns is measured by the standard deviation across asset-weighted portfolio returns represented within the composite for the full year.

6. Benchmark - The primary benchmark for the composite is the S&P 500 Index. The S&P 500 consists of 500 stocks chosen for market size, liquidity and industry group representation. It is a market value weighted index with each stock's weight in the index proportionate to its market value. The reported returns reflect a total return for each quarter inclusive of dividends. The asset mix of the composite may not be precisely comparable to the presented indices. Presentation of index data does not reflect a belief by the Firm that the S&P 500 Index, or any other index, constitutes an investment alternative to any investment strategy presented in these materials or is necessarily comparable to such strategies.

7. General Disclosure - The three-year annualized standard deviation is not presented because 36 months of history is not available. Actual results may differ from composite results depending upon the size of the account, custodian related costs, the inception date of the account and other factors. ***Performance results presented herein do not necessarily indicate future performance. Investment in equity strategies involves substantial risk and has the potential for partial or complete loss of funds invested. Results presented include reinvestment of all dividends and other earnings.*** The securities identified and described do not represent all of the securities purchased, sold, or recommended for client accounts. It should not be assumed that any securities recommendations made by Navellier in the future will be profitable or equal the performance of securities made in this report. A list of recommendations made by Navellier & Associates, Inc. for the preceding twelve months is available upon request.

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VIREO
Confidence Rising

Vireo Premium

An all equity portfolio, represented by the nine S&P 500 sectors, using SPDR Sector ETFs.

Vireo - The Defensive ETF Portfolios that Go To Cash

**"The #1 rule of making money is not to lose money.
The second rule is to never forget rule #1."**

Warren Buffet, The Sage of Omaha

rv050312

1Q 2012

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SUPPLEMENTAL INFORMATION

VIREO℠ is a unique suite of investment strategies with a single-minded focus: limiting losses during extended market downturns. For today's investor, what you make is not nearly as important as what you keep! Based on the AlphaSector Indexes, owned and published by Active Index Solutions LLC, this strategy, known as defensive allocation, also allows Vireo to deliver improved returns in up markets by constantly working from a position of strength (i.e., the portfolio's attempt to avoid losses before making new gains). The Vireo portfolios are designed to deliver attractive risk-adjusted returns through multiple investment markets via diversification and defensive re-allocation, including the use of cash.

Allocator Portfolio Key Features

- Invests in the nine Select Sector SPDR ETFs and cash equivalents
- Uses NO shorting, leverage, inverse ETFs, or exotic derivative investments
- Focuses primarily on downside risk management, especially in weak markets
- Under extreme market conditions, the portfolio can build and hold substantial cash positions to avoid losses
- Participates in rising markets with the ability to outperform in down markets
- 100% quantitative process, highly disciplined, weekly calculation

Extreme losses can destroy any investment plan.

Loss	Gain Required to Recover	Capital Gap	Years Required for Full Recovery
-10.0%	**11.1%**	**1.1%**	**1.0**
-10.1%	11.2%	1.1%	1.0
-20.0%	25.0%	5.0%	2.0
-30.0%	42.9%	12.9%	3.3
-40.0%	66.7%	26.7%	4.7
-50.0%	100.0%	50.0%	6.3
-51.0%	**104.1%**	**53.1%**	**6.5**

In less than one year (5/18/2008 - 3/7/2009), the S&P 500 lost 51%; full recovery requires a gain of 104%. During the same period, AlphaSector Premium Index only lost 10% with full recovery only requiring a gain of 11.1%.

Source: F-Squared Investments, Inc., NASDAQ OMX, Morningstar, Active Index Solutions.

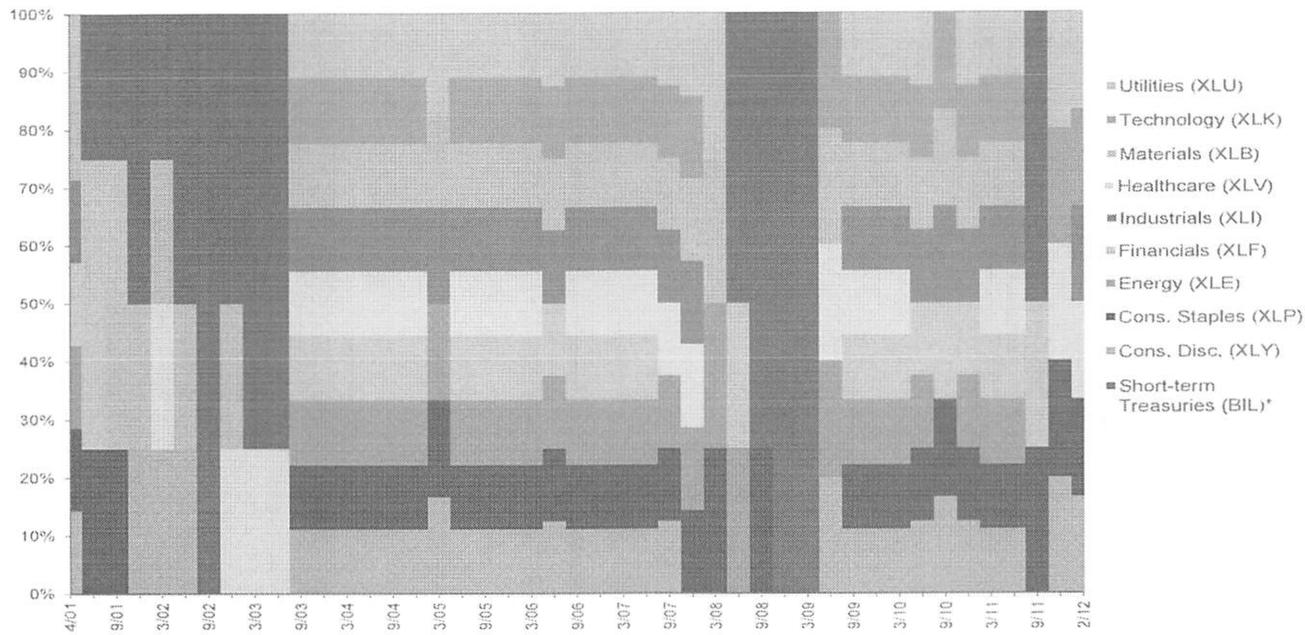
Investment in equity strategies involves substantial risk and has the potential for partial or complete loss of funds invested. Please read important disclosures at the end of this presentation.

SUPPLEMENTAL INFORMATION

Historical Diversification and Re-allocation

April 1, 2001 - February 29, 2012

The AlphaSector Index invests in the nine Select Sector ETFs and a cash equivalent. Based upon a weekly risk assessment calculation, each sector may be "turned on" or "turned off" and under certain circumstances, the portfolio has the potential to have a 100% allocation to a cash equivalent.



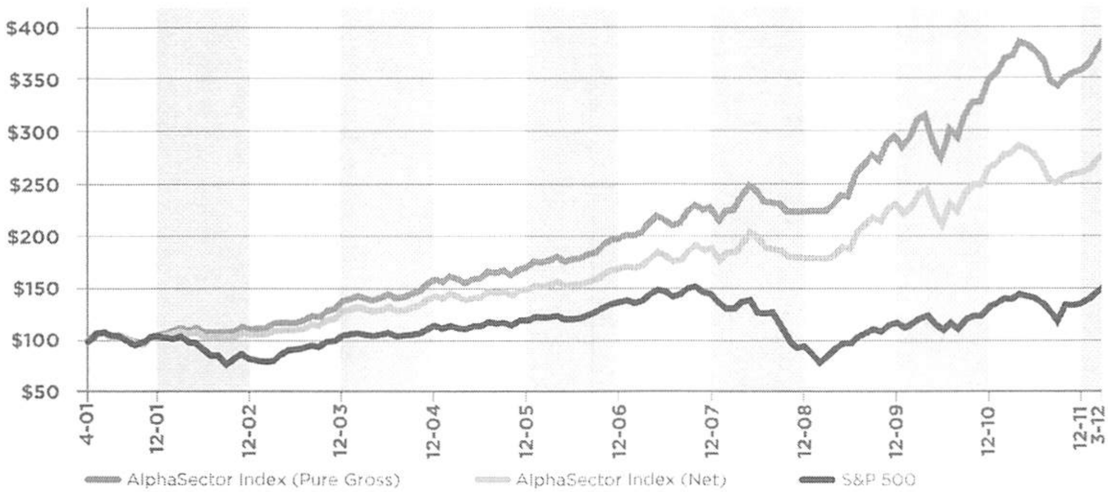
Note periods where the Index goes to cash: (BIL)

* Vireo Premium accounts may invest in a cash equivalent, such as money market funds, in place of BIL.

Source: F-Squared Investments, Morningstar. Copyright 2009 – Patents pending. Allocations presented for each ETF represent the allocation as of the last day of the period. Allocations are rounded for presentation purposes.

AlphaSector Index* Performance

Growth of 100 Dollars from 4/1/2001 - 3/31/2012



*The Model Manager, F-Squared Investments, refers to the index as the AlphaSector Premium Index. Sources: F-Squared Investments, Inc., Morningstar, Zephyr StyleADVISOR. Performance results presented herein do not necessarily indicate future performance. Graphs are for illustrative and discussion purposes only. Investment in equity strategies involves substantial risk and has the potential for partial or complete loss of funds invested. Results presented include reinvestment of all dividends and other earnings. Please read important disclosures at the end of this presentation.

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AlphaSector Index Performance

AlphaSector Index Performance

SUPPLEMENTAL INFORMATION

Performance Returns

Annualized Returns through 3/31/12	AlphaSector Index (Pure Gross)	AlphaSector Index (Net)	S&P 500 Index
1st Quarter	8.69%	7.89%	12.59%
Year-to-Date	8.69%	7.89%	12.59%
Trailing 1 Year	4.25%	1.18%	8.54%
Trailing 3 Years	19.83%	16.33%	23.42%
Trailing 5 Years	13.62%	10.29%	2.01%
Trailing 10 Years	13.15%	9.84%	4.12%
Since Inception (4/1/01)	13.12%	9.81%	3.76%
Cumulative Return (4/1/01-3/31/12)	288.17%	179.86%	50.09%

Return/Risk Analysis

4/1/2001 to 3/31/2012	AlphaSector Index (Pure Gross)	AlphaSector Index (Net)	S&P 500 Index
Best Month	10.12%	9.87%	10.93%
Worst Month	-7.85%	-8.10%	-16.79%
% of Up Month	68%	62%	62%
% of Down Month	32%	38%	38%
Maximum Drawdown (%)	-13.25%	-13.72%	-50.95%

Yearly Returns

	AlphaSector Index (Pure Gross)	AlphaSector Index (Net)	S&P 500 Index
2011	1.67%	-1.33%	2.11%
2010	17.90%	14.45%	15.06%
2009	32.31%	28.48%	26.46%
2008	-1.87%	-4.78%	-37.00%
2007	14.97%	11.60%	5.49%
2006	16.69%	13.28%	15.79%
2005	6.86%	3.72%	4.91%
2004	14.88%	11.52%	10.88%
2003	24.81%	21.18%	28.68%
2002	5.33%	2.22%	-22.10%
2001 (9 months)	5.99%	3.64%	-0.03%

Comparative Return/Risk Analysis

4/1/2001 to 3/31/2012	AlphaSector Index (Pure Gross)	S&P 500 Index
Alpha[2]	11.11%	0.00%
Beta[2]	0.47%	1.00%
Standard Deviation[1]	10.56%	15.99%
R-Squared[2]	51.22%	100.00%
Up Capture Ratio	81.70%	100.00%
Down Capture Ratio	42.80%	100.00%

Source: F-Squared Investments, Morningstar, Zephyr StyleADVISOR
All returns over 1 year are annualized.
[1] Annualized standard deviation since inception
[2] Calculated since inception vs. S&P 500 index

The information shown above represents the performance statistics of the AlphaSector Index as published by Active Index Solutions, LLC. (For a complete description of the Index, please refer to the full disclosure statement on the next page.)

Potential investors should consult with their financial advisor before investing in any investment product. Investment in equity strategies involves substantial risk and has the potential for partial or complete loss of funds invested. Results presented do not necessarily indicate future performance. All performance figures include reinvestment of dividends, interest, and other income. Please read important disclosures at the end of this presentation.

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ALPHASECTOR INDEX:

Vireo Premium attempts to track an index known as the AlphaSector Premium Index ("Index"), owned and published by Active Index Solutions, LLC ("AIS"). The AlphaSector Premium Index is a quantitatively driven index that applies a weekly trading protocol to nine Select Sector SPDRs and an exchange traded fund ("ETF") representing 1-3 month Treasuries (ticker BIL). Note that the Vireo Premium accounts managed by the adviser may invest in a cash equivalent, such as money market funds, in place of BIL. The Index has the potential to be invested in any combination of the nine SPDRs including all nine at the same time, a combination of sector SPDRs and the Treasury ETF, or can be 100% invested in the Treasury ETF. There is no guarantee that the adviser will be successful in achieving returns similar to the AlphaSector Premium Index, and in fact client returns will be significantly lower than the Index returns after fees are taken into account, including management fees, brokerage or transaction costs, or other administrative or custodian fees a client may incur. One cannot directly invest in an index. Index returns presented represent past performance and are not a guarantee of future results or indicative of any specific investment.

"AlphaSector" is a service mark of F-Squared Investments, Inc. ("F-Squared"), and AIS. Neither AIS nor F-Squared Investments, Inc. is affiliated with Navellier & Associates, Inc. ("Navellier"). Navellier has entered into a Model Manager Agreement with F-Squared pursuant to which it timely receives any changes made to the AlphaSector Premium Index holdings. Investment products such as the Vireo Premium strategy that are based on the AlphaSector Premium Index are not necessarily sponsored by AIS or F-Squared, and AIS and F-Squared do not make any representation regarding the advisability of investing in them.

As a matter of normal and important disclosures to you, as a potential investor, please consider the following. Some of the returns presented reflect hypothetical performance an investor would have obtained had it invested in the manner shown and does not represent returns that an investor actually attained. Hypothetical backtested performance has many inherent limitations. The Index should be considered as Model Portfolio results and are mere "paper" or proforma performance results. There are material differences between Vireo Investment Product portfolios and the Index, research, and performance figures presented here. The Index and the research results (1) may contain stocks that are illiquid and difficult to trade; (2) may contain ETF holdings materially different from actual funded Vireo Investment Product portfolios; and (3) may not reflect prices obtained in an actual funded Vireo Investment Product portfolio.

As a matter of important disclosure regarding the hypothetical results presented in the accompanying charts and graphs, the following factors must be considered when evaluating the performance figures presented:

1) Historical or illustrated results presented herein do not necessarily indicate future performance; **Investment in securities involves significant risk and has the potential for partial or complete loss of funds invested.**

2) The results presented were generated during a period of mixed (improving and deteriorating) economic conditions in the U.S. and positive and negative market performance. There can be no assurance that the favorable market conditions will occur again in the future. Navellier has no data regarding actual performance in different economic or market cycles or conditions.

3) The results portrayed reflect the reinvestment of dividends and other income.

4) LIMITATIONS INHERENT IN HYPOTHETICAL RESULTS: The performance results presented are from an Index, not an actually funded portfolio, and may not reflect the impact that material economic and market factors might have had on the adviser's decision-making if the adviser were actually managing clients' money, and thus present returns which are greater than what a potential investor would have experienced for the time period. The results are presented for informational purposes only. No real money has been invested in this Index. The Index performance results should be considered mere 'paper' or pro forma performance results. The Index results do not represent actual funded trades and may not reflect actual prices paid or received for actual funded trades.

5) The reported performances of Indexes presented in the accompanying charts and graphs do not reflect the performance results of Navellier's actually funded and traded Investment Products.

6) In most cases, the adviser's clients' investment results would be materially lower than the results portrayed in the Index.

7) The Index results may or may not relate, or only partially relate, to the type of advisory services currently offered by Navellier & Associates, Inc.

Navellier does not calculate the statistical information included herein. This material has been prepared solely for informative purposes. F-Squared is the source of all performance data related to the F-Squared AlphaSector Indexes cited in these reports. Although information contained herein is based on sources Navellier believes to be reliable, Navellier does not guarantee its accuracy, and the information may be incomplete or condensed. Statistical analyses of the data presented are provided by Zephyr Associates, a company not related to Navellier. Information presented herein and the related Zephyr sourced information is provided on an "as is" basis. The user assumes the entire risk of any use made of this information. Investors should consider the report as only a single factor in making their investment decision. The report is for informational purposes only and is not intended as an offer or solicitation for the purchase or sale of a security. Zephyr sourced information is the exclusive property of Zephyr Associates. Without prior written permission of Zephyr Associates, this information may not be reproduced, disseminated, or used to create any financial products.

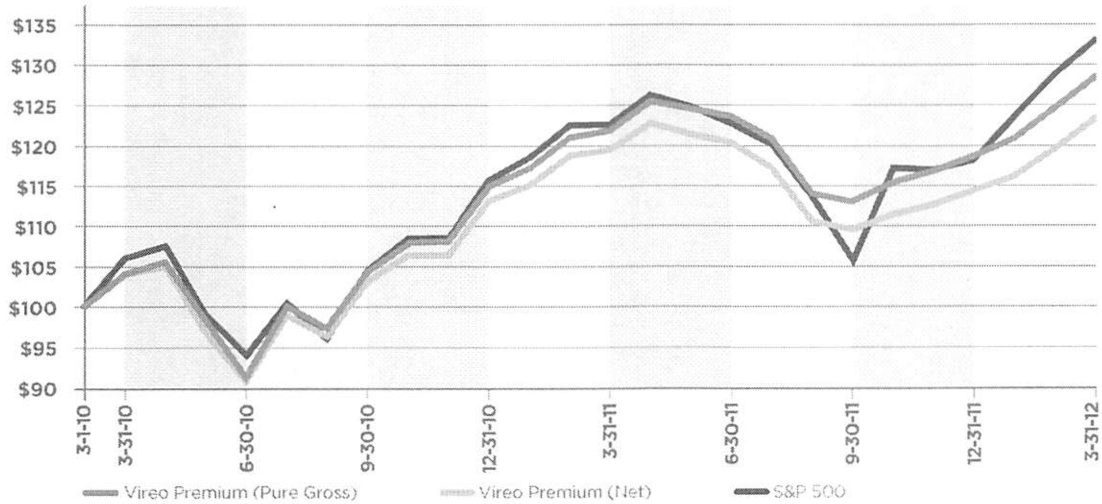
The results portrayed include investment advisory fees paid to the adviser equal to 1.25% plus an estimated custodian/brokerage fee to account for transaction/brokerage costs equal to 1.75%, for total fees equal to 3.00%. The adviser believes these fees represent the highest fees a client may incur with a brokerage firm or other financial intermediary. However, it may be that some financial intermediaries charge fees greater than the adviser is aware of. The pure gross results portrayed do not include any investment advisory fees, administrative fees, or transaction expenses, or other expenses that a client would have paid or actually paid. The fees reflected in the net performance figures in this presentation may not include administrative fees, or transaction expenses, or other expenses that a client would have paid or actually paid. The fees may also vary depending on the account size and estimated trading costs will be greater for smaller accounts. The ETFs invested in the model portfolios have their own expenses that are included in the gross and net returns presented.

The S&P 500 Index measures the performance of 500 stocks that are considered to be widely held by Standard & Poors, a division of The McGraw-Hill Companies, Inc., and comprises approximately three-quarters of the total capitalization of companies publicly traded in the United States. The S&P 500 Index is weighted by market value and its performance is thought to be representative of the stock market as a whole. It is reported that over 70% of all U.S. equity funds are tracked by the S&P 500. The index selects its companies based upon their market size, liquidity, and sector. Most of the companies in the index are mid cap or large corporations. This index is composed of 400 industrial, 20 transportation, 40 utility, and 40 financial companies. Many experts consider the S&P 500 one of the most important benchmarks available to judge overall U.S. market performance. Presentation of index data does not reflect a belief by Navellier that any stock index constitutes an investment alternative to any Navellier equity strategy presented in these materials, or is necessarily comparable to such strategies and an investor cannot invest directly in an index. Among the most important differences between the indexes and Navellier strategies are that the Navellier equity strategies may (1) incur material management fees, (2) concentrate investments in relatively few ETFs, industries, or sectors, (3) have significantly greater trading activity and related costs, and (4) be significantly more or less volatile than the indexes. All indexes are unmanaged and performance of the indices includes reinvestment of dividends and interest income, unless otherwise noted, is not illustrative of any particular investment and an investment cannot be made in any index.

Potential investors should consult with their financial adviser before investing in any Navellier Investment Product.

Vireo Premium Performance

Wrap Composite Growth of 100 Dollars from 3/1/2010 - 3/31/2012



Source: Navellier & Associates, Zephyr StyleADVISOR.

Vireo Premium Performance

SUPPLEMENTAL INFORMATION

Vireo Premium Performance

Performance Returns

Annualized Returns through 3/31/12	Vireo Premium Wrap Composite (Pure Gross)	Vireo Premium Wrap Composite Net	S&P 500 Index
1st Quarter	8.30%	7.76%	12.59%
Year-to-Date	8.30%	7.76%	12.59%
Trailing 1 Year	5.52%	3.23%	8.54%
Since Inception (3/1/10)	12.80%	10.60%	14.71%
Cumulative Return (3/1/10-3/31/12)	28.52%	23.35%	33.10%

Yearly Returns

	Vireo Premium Wrap Composite (Pure Gross)	Vireo Premium Wrap Composite Net	S&P 500 Index
2011	3.19%	1.13%	2.11%
2010 (10 months)	15.00%	13.18%	15.77%

Source: Navellier & Associates, FactSet, Zephyr StyleADVISOR.
All returns over 1 year are annualized.
(1) Annualized standard deviation since inception
(2) Calculated since inception vs. S&P 500 Index

Return/Risk Analysis

3/1/2010 to 3/31/2012	Vireo Premium Wrap Composite (Pure Gross)	Vireo Premium Wrap Composite Net	S&P 500 Index
Best Month	9.79%	9.27%	10.93%
Worst Month	-7.79%	-7.82%	-7.99%
% of Up Month	68%	68%	64%
% of Down Month	32%	32%	36%
Maximum Drawdown (%)	-13.67%	-13.72%	-16.26%

Comparative Return/Risk Analysis

3/1/2010 to 3/31/2012	Vireo Premium Wrap Composite (Pure Gross)	S&P 500 Index
Alpha(2)	2.22%	0.00%
Beta(2)	0.71%	1.00%
Standard Deviation(1)	14.07%	17.05%
R-Squared(2)	75.01%	100.00%
Up Capture Ratio	76.00%	100.00%
Down Capture Ratio	77.40%	100.00%

The information shown above represents the actual composite data of all wrap Vireo Premium accounts. The composite's inception is March 1, 2010. (For a complete description of the composite, please refer to the full disclosure statement on the next page.)

Potential investors should consult with their financial advisor before investing in any investment product. Investment in equity strategies involves substantial risk and has the potential for partial or complete loss of funds invested. Graphs are for illustrative and discussion purposes only. Results presented do not necessarily indicate future performance. All performance figures include reinvestment of dividends, interest, and other income. Please read important disclosures at the end of this presentation.

VIREO PREMIUM WRAP COMPOSITE
Reporting Currency U.S. Dollar

Year	Firm Assets ($M)	Composite Assets ($M)	Percentage of Firm Assets	Number of Accounts	Composite Pure Gross Return (%)	Composite Net Return (%)	S&P 500 Index Return (%)	Composite Dispersion (%)
2011	2,719	23	<1%	99	3.19	1.13	2.11	0.14
2010[1]	2,365	3	<1%	21	15.00	13.18	15.77	N/A[2]

[1]*Performance calculations for the period ended December 31, 2010 only includes 10 months of history.*
[2]*N/A information is not statistically meaningful due to an insufficient number of portfolios in the composite for the entire year.*

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1. Compliance Statement - Navellier & Associates, Inc. claims compliance with the Global Investment Performance Standards (GIPS®) and has prepared and presented this report in compliance with GIPS standards. Navellier & Associates, Inc. has been independently verified for the periods January 1, 1995 through September 30, 2011 by Ashland Partners & Company LLP. Verification assesses whether (1) the firm has complied with all the composite construction requirements of the GIPS standards on a firm-wide basis and (2) the firm's policies and procedures are designed to calculate and present performance in compliance with the GIPS standards. The Vireo Premium Wrap Composite has been examined for the periods March 1, 2010 through September 30, 2011. The verification and performance examination reports are available upon request.

2. Definition of Firm - Navellier & Associates, Inc. is a registered investment adviser established in 1987. Navellier & Associates, Inc. manages a variety of equity assets for primarily U.S. and Canadian institutional and retail clients. The firm's list of composite descriptions as well as information regarding the firm's policies for valuing portfolios, calculating performance, and preparing compliant presentations are available upon request.

3. Composite Description - The Vireo Premium Wrap Composite includes all discretionary Vireo Premium equity accounts that are charged a wrap fee and are managed with similar objectives for a full month, including those accounts no longer with the firm. The strategy attempts to track an index known as the AlphaSector Premium Index ("Index"). Navellier & Associates, Inc. pays a licensing fee to F-Squared Investments, Inc. to provide a model of the Index. The Index is quantitatively driven and applies a weekly trading protocol to nine Select Sector SPDRs and an exchange traded fund ("ETF") representing 1-3 month Treasuries. Note that the Vireo Premium accounts managed by Navellier & Associates, Inc. may invest in a cash equivalent, such as money market funds, in place of the 1-3 month Treasury ETF. The index has the potential to be invested in any combination of the nine SPDRs including all nine at the same time, a combination of sector SPDRs and the Treasury ETF, or can be 100% invested in the Treasury ETF. There is no guarantee that Navellier will achieve returns similar to the index, and in fact the strategy's returns may vary from the index due to the timing of trades and after fees are taken into account, including management fees, brokerage or transactions costs, or other administrative or custodian fees. Performance is calculated on a "time-weighted" and "asset-weighted" basis. Performance figures that are net of fees take into account advisory fees and any brokerage fees or commissions that have been deducted from the account. "Pure" gross-of-fees returns do not reflect the deduction of any trading costs, fees, or expenses, and are presented only as supplemental information. Performance results are total returns and include the reinvestment of all income, including dividends. The composite was created March 1, 2010. As of April 2012, the Vireo AlphaSector Premium Wrap Composite has been renamed the Vireo Premium Wrap Composite. Valuations and returns are computed and stated in U.S. Dollars.

4. Management Fees - The management fee schedule for accounts ranges from 75 to 100 basis points, depending on account size and brokerage selected. Some incentive fee, fixed fee, and fulcrum fee accounts may be included. Fees are negotiable, and not all accounts included in the composite are charged the same rate. Bundled fee accounts make up 100% of the composite for all periods shown. Fee schedules are provided by independent sponsors and are available upon request from the respective sponsor. The bundled fees include custody, trading expenses, and other expenses associated with the management of the account. The client is referred to the firm's Form ADV Part 2A for a full disclosure of the fee schedule.

5. Composite Dispersion - If applicable, the dispersion of annual returns is measured by the standard deviation across asset-weighted portfolio returns represented within the composite for the full year.

6. Benchmark - The primary benchmark for the composite is the S&P 500 Index. The S&P 500 consists of 500 stocks chosen for market size, liquidity and industry group representation. It is a market value weighted index with each stock's weight in the index proportionate to its market value. The reported returns reflect a total return for each quarter inclusive of dividends. The asset mix of the composite may not be precisely comparable to the presented indices. Presentation of index data does not reflect a belief by the Firm that the S&P 500 Index, or any other index, constitutes an investment alternative to any investment strategy presented in these materials or is necessarily comparable to such strategies.

7. General Disclosure - The three-year annualized standard deviation is not presented because 36 months of history is not available. Actual results may differ from composite results depending upon the size of the account, custodian related costs, the inception date of the account and other factors. ***Performance results presented herein do not necessarily indicate future performance. Investment in equity strategies involves substantial risk and has the potential for partial or complete loss of funds invested. Results presented include reinvestment of all dividends and other earnings.*** The securities identified and described do not represent all of the securities purchased, sold, or recommended for client accounts. It should not be assumed that any securities recommendations made by Navellier in the future will be profitable or equal the performance of securities made in this report. A list of recommendations made by Navellier & Associates, Inc. for the preceding twelve months is available upon request.

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VIREO™ is a joint venture between Navellier & Associates, one of the nation's respected growth money managers, and F-Squared Investments, a pioneer in innovative investment strategies committed to providing investors with ground-breaking investments solutions.

About Navellier & Associates

Navellier & Associates, Inc., is a registered investment advisor and was founded in 1987 by acclaimed growth manager, Louis G. Navellier. Located in Reno, Nevada, Navellier is an independent, employee-owned firm managing money for institutions and high net worth individuals.

About F-Squared Investments

F-Squared Investments, Inc., is a quantitatively based boutique investment firm located in Newton, Massachusetts. The firm's innovative business model delivers scalable, transparent investment strategies with customizable capabilities to meet investor needs.

Vireo Portfolio Sponsor
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Model Portfolio Management
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EXHIBIT 9

OS Received 03/16/2023

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

SECURITIES AND EXCHANGE COMMISSION, **Plaintiff,** **v.** **NAVELLIER & ASSOCIATES, INC. and LOUIS NAVELLIER,** **Defendant.**	)	**Case No. 17-cv-11633**

MEMORANDUM AND ORDER

CASPER, J. **February 13, 2020**

I. Introduction

The Securities and Exchange Commission ("SEC") filed this lawsuit against Navellier & Associates, Inc. ("NAI") and its principal, Louis Navellier ("Navellier") (collectively, "Defendants"), alleging violations of the Investment Advisers Act of 1940 ("Advisers Act"), 15 U.S.C. §§ 80b-1–80b-21. D. 1. The SEC has moved for partial summary judgment on Defendants' affirmative defense of selective enforcement and on Counts One and Two of the complaint. D. 220. Defendants have cross-moved for summary judgment on all counts. D. 223. For the reasons stated below, the Court DENIES Defendants' motion for summary judgment and ALLOWS the SEC's motion as to Defendants' affirmative defense and Counts One and Two.

II. Standard of Review

The Court grants summary judgment where there is no genuine dispute as to any material fact and the undisputed facts demonstrate that the moving party is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(a). "A fact is material if it carries with it the potential to affect the outcome of the suit under the applicable law." Santiago-Ramos v. Centennial P.R. Wireless Corp., 217 F.3d 46, 52 (1st Cir. 2000) (quoting Sánchez v. Alvarado, 101 F.3d 223, 227 (1st Cir. 1996)). The movant "bears the burden of demonstrating the absence of a genuine issue of material fact." Carmona v. Toledo, 215 F.3d 124, 132 (1st Cir. 2000); see Celotex Corp. v. Catrett, 477 U.S. 317, 323 (1986). If the movant meets its burden, the non-moving party may not rest on the allegations or denials in his pleadings, Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 256 (1986), but "must, with respect to each issue on which [he] would bear the burden of proof at trial, demonstrate that a trier of fact could reasonably resolve that issue in [his] favor." Borges ex rel. S.M.B.W. v. Serrano-Isern, 605 F.3d 1, 5 (1st Cir. 2010). "As a general rule, that requires the production of evidence that is 'significant[ly] probative.'" Id. (quoting Anderson, 477 U.S. at 249) (alteration in original). When assessing a motion for summary judgment, the Court will not consider "conclusory allegations, improbable inferences, and unsupported speculation." Galloza v. Foy, 389 F.3d 26, 28 (1st Cir. 2004) (quoting Medina-Munoz v. R.J. Reynolds Tobacco Co., 896 F.2d 5, 8 (1st Cir. 1990)). The Court "view[s] the record in the light most favorable to the nonmovant, drawing reasonable inferences in his favor." Noonan v. Staples, Inc., 556 F.3d 20, 25 (1st Cir. 2009). "At the summary judgment stage the judge's function is not . . . to weigh the evidence and determine the truth of the matter but to determine whether there is a genuine issue for trial." DeNovellis v. Shalala, 124 F.3d 298, 308 (1st Cir. 1997).

III. Factual Background

The following facts are drawn primarily from the SEC's statement of undisputed material facts, D. 222, Defendants' statement of undisputed facts,[1] D. 227, each party's response to same, D. 232 & D. 236, and the SEC's reply to Defendants' response, D. 242.

A. History of SEC Communication with NAI

At all times relevant to this dispute, both NAI and Navellier acted as investment advisers pursuant to the definition in the Advisers Act.[2] D. 232, ¶ 1; D. 242, ¶¶ 6 & 8. In 1999, the SEC's Office of Compliance Inspections and Examinations ("OCIE") sent a letter to NAI detailing compliance deficiencies regarding NAI's failure to disclose that certain performance figures had been backtested. D. 242, ¶ 35; D. 222-20. OCIE sent another letter to NAI in 2003 detailing deficiencies in NAI's advertisement of investment performance figures. D. 242, ¶ 36; D. 222-21. OCIE examined NAI again in 2006 and sent a letter to NAI in 2007 detailing deficiencies in NAI's presentation of performance figures. D. 242, ¶ 37; D. 222-22. The 2007 letter indicated that "NAI should be aware that the [SEC] staff views repeat violations as a serious matter and considers

[1] The SEC argues that Defendants' motion should be denied in full based on violations of Local Rule 56.1, which sets forth procedural requirements for summary judgment motions, including the statements of material facts required to be filed by both parties in conjunction with their motions. See D. 231 at 1. In particular, the SEC argues that Defendants' statement of material facts is not supported by evidentiary cites or cites to documents that do not fully support the statements made. Id. The Court declines to deny Defendants' motion on this basis, but the Court has not relied upon any alleged facts or claimed disputes of fact that have not been adequately supported by record evidence. See Bradley v. Cruz, 13-cv-12927-IT, 2017 WL 1197700, at *1 (D. Mass. March 30, 2017); Shervin v. Partners Healthcare Sys., 2 F. Supp. 3d 50, 60 (D. Mass. 2014).

[2] The Advisers Act defines "investment adviser" as, in part, "any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as part of a regular business, issues or promulgates analyses or reports concerning securities." 15 U.S.C. § 80b-2(a)(11). The Advisers Act defines "person" as "a natural person or company." Id. § 80b-2(a)(16).

recidivist behavior when making a determination whether to refer matters to enforcement staff for possible further actions." Id. at 8-9.

B. NAI Agreement with F-Squared

In 2009, a representative from NAI, Peter Knapp ("Knapp"), met with Howard Present ("Present"), the founder of F-Squared Investments, Inc. ("F-Squared"), to conduct due diligence on an investment strategy developed by F-Squared called the AlphaSector Allocator ("AlphaSector"). D. 232, ¶ 21; D. 242, ¶ 49. Following this meeting, Knapp prepared an "Executive Summary" detailing his due diligence. D. 232, ¶ 26; D. 242, ¶ 49. In the Executive Summary, Knapp stated that "[F-Squared] flat out won't show the math to us" in regard to the AlphaSector strategies. D. 242, ¶ 49; D. 222-42. Knapp later testified that NAI never received any trading confirmations for the AlphaSector performance returns. D. 242, ¶ 50; D. 222-43 at 7. NAI's President, Arjen Kuyper ("Kuyper"), also testified that NAI was not given any materials to confirm the AlphaSector strategy performance prior to 2008. D. 242, ¶ 52; D. 222-44 at 3. Knapp discussed the due diligence with Navellier, who agreed that NAI should enter into a model management agreement with F-Squared to license the AlphaSector strategies. See D. 232, ¶ 27. Pursuant to the model management agreement, F-Squared sent NAI securities and percentage allocation information for each of the licensed AlphaSector strategies. D. 232, ¶ 63. NAI re-branded the licensed strategies they offered to clients as "Vireo AlphaSector" strategies. See D. 232, ¶ 63; D. 242, ¶ 1.

The SEC alleges that materials used by NAI to market the Vireo AlphaSector products falsely indicated that the track record of the Vireo AlphaSector strategy was based on live trading since 2001. D. 242, ¶ 4. Defendants dispute that their marketing materials include these claims; however, the SEC has submitted exhibits of NAI marketing materials that state that the strategies were live traded since 2001 and that they were not backtested. Id.; D. 222-27-35. Additionally, NAI's Rule 30(b)(6) witness confirmed that NAI marketing materials included the claim that the strategies were live traded for the entire time that NAI sold the Vireo AlphaSector strategies. D. 242, ¶ 41. This was confirmed by other witnesses for NAI, including NAI's Director of Marketing. D. 242, ¶ 42. In particular, NAI marketing materials included the claims that "live assets began tracking the [Vireo AlphaSector] strategies" beginning in 2001, that the returns were "not back-tested" and that presented results were "based on an active strategy with an inception date of April 1, 2001," among other claims. D. 242, ¶ 43. Defendants have admitted that they do not have sufficient knowledge to confirm whether the strategy underlying the Vireo AlphaSector products was backtested. D. 242, ¶ 5; D. 222-2, ¶ 5.

C. NAI's Internal Communications Regarding AlphaSector

During a conference call in March 2011 in which Present and NAI participated, Present stated that the AlphaSector strategies were not based on actual trades starting in 2001. D. 242, ¶ 55. A month later, in April 2011, Navellier sent an internal email to NAI personnel in which he stated that he "went to get the [AlphaSector] confirms yesterday . . . and I was told there were no confirms, just a spreadsheet. I was shocked. Any idiot can send a bogus spreadsheet!" D. 242, ¶ 56; D. 222-46. Navellier then stated "[t]hat is not due diligence, that is stupidity" and expressed concerns about avoiding liability based on this revelation, noting that "[w]e just have to cover our ass somehow" and that "the SEC is going to love this." Id. In May 2011, Navellier sent another internal email stating that "[u]nless somebody shows me the confirms, [F-Squared] is merely a model and I am protecting the firm from potential fraud, so we must not talk about [F-Squared] as being base[d] on real $ since 2001." D. 242, ¶ 57; D. 222-47. Navellier, however, stated at that time that he was "not stopping Vireo [AlphaSector] sales." Id. In August 2011, Navellier sent an internal email to NAI leadership stating that "Vireo was a good idea, but we sold the wrong product that continues to smell like FRAUD." D. 242, ¶ 58; D. 222-48. He then stated that NAI could possibly sell the Vireo AlphaSector business so that members of management could "have a big payday." Id. Navellier sent another email in August 2011 in which he referenced selling off the Vireo AlphaSector business because the F-Squared model is "made up" and "fraud does not protect you from the SEC and other regulatory heat." D. 242, ¶ 59; D. 222-49.

D. Compliance Review by ACA

In January 2013, NAI entered into a consulting agreement with ACA Compliance Group ("ACA") to conduct a focused market review. D. 242, ¶ 65. Ted Eichenlaub ("Eichenlaub"), a representative of ACA, spoke with Kuyper and, in contemporaneous email notes to himself regarding the call, Eichenlaub noted that he was told, in part, that the Vireo AlphaSector performance results were backtested and that they were incorrect. D. 242, ¶ 68. Kuyper then followed up with an email to Eichenlaub that stated, in part, that F-Squared could not provide any confirmations of the performance numbers for the AlphaSector strategies, that there was no way to confirm actual trades and that marketing materials used by NAI incorrectly indicated that Vireo AlphaSector returns went back ten years. D. 242, ¶ 69. Eichenlaub advised NAI in a response to Kuyper that NAI was required to "have a basis for representing" performance numbers in their marketing materials. D. 242, ¶ 72.

E. Sale of Vireo AlphaSector to F-Squared

In March 2013, Navellier executed a letter of intent to sell NAI's "Vireo strategies and associated client accounts using such strategies" to F-Squared. D. 242, ¶ 73; D. 222-63. The letter of intent stated that the purchase price would be $14 million upon the fulfillment of certain terms, including that there was "at least $1.1 billion in revenue generating clients at the time of closing."

Id. In April 2013, Navellier emailed employees of NAI to notify them of the sale to F-Squared, stating, in part, that "[t]he catalyst for the surrender . . . is that F-Squared refuses to stop circulating its fake 10+ year AlphaDEX indexes before the ETFs actually commenced on May 10, 2007" and that NAI was "tipped off to F-Squared's fraud by an ex-SEC enforcement officer, so we have no other choice other than to clean up this mess ASAP." D. 242, ¶ 74; D. 222-64. The letter noted that this was "a massive due diligence failure" on behalf of NAI and that NAI was "at risk of a $225,000 fine" from the SEC for their distribution of the false performance records. Id. In August 2013, NAI and F-Squared entered into an assignment and asset purchase agreement to sell the Vireo AlphaSector business to F-Squared. D. 242, ¶ 75; see D. 232, ¶ 138. NAI also sent a letter to its clients in August 2013 announcing the sale of the Vireo AlphaSector products to F-Squared. D. 242, ¶ 77; D. 222-67. The letter did not indicate the reasons for the sale that were articulated in the letter to NAI employees and failed to notify clients that the performance information included in advertisements and marketing materials had been inaccurate and misleading. Id. Defendants do not dispute that they never informed their clients that there was no evidence to support the performance record of the Vireo AlphaSector strategy between 2001 and 2008 or any evidence that the strategy had been live traded and not backtested as they had marketed. D. 242, ¶ 77.

F. SEC Investigates F-Squared, NAI, and Other Investment Advisers

In October 2013, the SEC began investigating F-Squared and served investigative subpoenas on NAI and other advisory firms that had similarly licensed the AlphaSector products from F-Squared. D. 232, ¶ 143. During this investigation, the SEC collected approximately fifteen million pages of documents and conducted interviews. D. 232, ¶ 144. The SEC instituted an administrative action against F-Squared, which was later settled. D. 232, ¶ 145. In 2014, the SEC also initiated a civil action against Present. D. 232, ¶ 146; D. 242, ¶ 10. The SEC litigated its case against Present and obtained an injunction and industry bar against him. D. 242, ¶ 13. The SEC brought enforcement actions against over twenty investment firms in connection with the investigation into F-Squared. D. 232, ¶ 147; D. 242, ¶ 10. Many of the parties settled with the SEC. D. 242, ¶ 13. The SEC and NAI attempted to negotiate a similar settlement, but negotiations eventually broke down and the SEC initiated the present action against NAI and Navellier in August 2017. See D. 242, ¶¶ 14-34.

IV. Procedural History

The SEC instituted this action on August 31, 2017. D. 1. The SEC moved for summary judgment on Defendants' affirmative defense of selective enforcement and on Counts One and Two, which allege violations of the Advisers Act. D. 220. Defendants cross-moved for summary judgment on all counts. D. 223. The Court held a hearing on the motions and took the matter under advisement. D. 246.

V. Discussion

A. Selective Enforcement

Defendants' fourteenth affirmative defense asserts that the SEC has engaged in selective enforcement in bringing this action against them. D. 53 at 37-38. Defendants allege selective enforcement based on both a violation of the Equal Protection clause and under a class of one theory. D. 235 at 22. They claim that similar actions have not been brought against other entities and individuals that are similarly situated and, therefore, the entire action against them must be dismissed. D. 53 at 37-38; D. 235 at 25. Defendants also assert that the SEC brought this action in bad faith to punish them for declining a settlement offer. D. 224 at 29-30. The SEC argues that it should be granted summary judgment on Defendants' selective enforcement defense because the evidence demonstrates that it sought enforcement against similarly situated entities and that any differences in enforcement against those who are similarly situated to NAI and Navellier had a rational basis. D. 221 at 11-14.

1. Equal Protection

To establish a claim for an equal protection violation based on selective enforcement, the individual or entity must show that "(1) the person, compared with others similarly situated, was selectively treated; and (2) that such selective treatment was based on impermissible considerations such as race, religion, intent to inhibit or punish the exercise of constitutional rights, or malicious or bad faith intent to injure a person." Rubinovitz v. Rogato, 60 F.3d 906, 910 (1st Cir. 1995) (quoting Yerardi's Moody St. Restaurant & Lounge, Inc. v. Board of Selectmen, 878 F.2d 16, 21 (1st Cir. 1989)); Barth v. City of Peabody, No. CV 15-13794-MBB, 2017 WL 114403, at *4 (D. Mass. Jan. 11, 2017) (internal quotations omitted); see Aponte-Ramos v. Álvarez-Rubio, 783 F.3d 905, 908 (1st Cir. 2015) (quoting Marrero-Gutierrez v. Molina, 491 F.3d 1, 9 (1st Cir. 2007)). To determine whether individuals or entities are similarly situated, "the test is whether a prudent person, looking objectively at the incidents, would think them roughly equivalent and the protagonists similarly situated . . . the 'relevant aspects' are those factual elements which determine whether reasoned analogy supports, or demands, a like result." Aponte-Ramos, 783 F.3d at 909 (quoting Barrington Cove Ltd. P'ship v. R.I. Hous. & Mort. Fin. Corp., 246 F.3d 1, 8 (1st Cir. 2001)).

Defendants argue that the SEC has failed to enforce against numerous entities and individuals engaged in conduct like that on which the SEC bases its claims against NAI and Navellier. D. 235 at 24. The SEC counters that these entities and individuals are not similarly situated to NAI and Navellier because they did not engage in conduct as severe as that of NAI and, with regard to the individuals identified by Defendants, they were not in similar roles in their respective companies as Navellier, who is the owner and Chief Investment Officer of NAI. D. 231 at 4-5. For example, the SEC notes that Defendants have not addressed the volume and length of time over which the false claims were made or whether, like NAI and Navellier, these other entities and individuals were aware that their marketing claims were fraudulent. Id. Additionally, Defendants had also been warned of previous violations on at least three occasions but have not provided any evidence indicating that these entities and individuals that they claim are similarly situated had received similar warnings. Defendants have failed to meet their burden to establish that the comparators they identify are similarly situated in all relevant aspects to NAI and Navellier. See Startzell v. City of Philadelphia, 533 F.3d 183, 203 (3d Cir. 2008) (stating that, for the purposes of a selective enforcement claim, "[p]ersons are similarly situated under the Equal Protection Clause when they are alike in all relevant aspects" (internal quotations omitted)).

Even if Defendants had successfully established that they were selectively treated as compared to those similarly situated, they have not established that the SEC enforced this action against them based upon impermissible considerations, to inhibit or punish the exercise of their constitutional rights, or in bad faith. Defendants claim that "it cannot be disputed" that the SEC is pursuing this enforcement action against them in bad faith based upon Defendants' denial of the SEC's settlement terms. D. 224 at 29-30. To show that the SEC acted in bad faith, however, Defendants must establish that the SEC acted with "gross abuse of power, invidious discrimination or fundamentally unfair procedures." Walsh v. Town of Lakeville, 431 F. Supp. 2d 134, 145 (D. Mass. 2006) (quoting Baker v. Coxe, 230 F.3d 470, 474 (1st Cir. 2000)). The standard for bad faith is "very high and must be scrupulously met." Kitras v. Temple, No. 16-cv-11428-ADB, 2017 WL 4238862, at *5 (D. Mass. Sept. 25, 2017) (internal quotations omitted). Although Defendants argue that a settlement agreement was reached with the SEC, the SEC disputes this fact and the record indicates that settlement negotiations between the parties broke down before any settlement was agreed to by both parties. See D. 242, ¶ 19. There is no indication that the SEC sought to enforce more harshly against NAI or Navellier following the breakdown in settlement negotiations; rather, the SEC seeks enforcement consistent with that which they discussed in their initial communications with NAI and Navellier. D. 222-9 at 1 ("Wells Notice" sent from SEC to Defendants' counsel indicating that, if it proceeded to an enforcement action, the SEC could seek remedies similar to those sought in the present action for the same violations alleged herein). Defendants have not provided evidence sufficient to support their claim that the SEC in enforcing against them in bad faith or is based upon an improper consideration. See Rubinovitz, 60 F.3d at 911.

Defendants further argue that the SEC is estopped from disputing that it is proceeding against Defendants in bad faith because the SEC "refused" to produce certain documents related to its enforcement decisions in discovery. D. 224 at 30. The Court previously ruled on the Defendants' attempts to seek discovery related to the SEC's decision-making process regarding enforcement against other investment advisers. D. 175 (denying various document requests and deposition topics regarding the SEC's enforcement considerations and noting that the decision did not "deprive Defendants, as they suggest, of pursuing their selective enforcement defense" but that it reflected the need for discovery requests to comport with Rule 26). Defendants cite no cases that support their argument that the SEC is estopped from denying that it is acting in bad faith based on the SEC's objections to discovery requests that the Court has already determined were overbroad and not proportional.

2. *Class of One*

"A cognizable class of one equal protection claim requires a showing that the plaintiff 'has been intentionally treated differently from others similarly situated and that there is no rational basis for the difference in treatment.'" Boyle v. Barnstable Police Dep't, 818 F. Supp. 2d 284, 314 (D. Mass. 2011) (quoting SBT Holdings, LLC v. Town of Westminster, 547 F.3d 28, 34 (1st Cir. 2008)); see Comley v. Town of Rowley, 296 F. Supp. 3d 327, 335 (D. Mass. 2017). "[T]he proponent of the equal protection violation must show that the parties with whom he seeks to be compared have engaged in the same activity vis-a-vis the government entity without such distinguishing or mitigating circumstances as would render the comparison inutile." Cordi-Allen v. Conlon, 494 F.3d 245, 251 (1st Cir. 2001).

The SEC has enforced against other investment advisers that are similarly situated to NAI in cases regarding false advertising of the AlphaSector strategy. D. 242, ¶¶ 10-12. Defendants argue that, despite the SEC's enforcement of claims against these similarly situated entities, there are other similarly situated entities and individuals that the SEC did not enforce against and, thus, Defendants are in a class of one and the claims against them must be dismissed. D. 224 at 29. This argument is unavailing as a class of one defense cannot be maintained where similar enforcement has been sought against other individuals and entities. Cordi-Allen, 494 F.3d at 254 (rejecting a class of one claim and stating that "[b]y definition, a class of one is not a class of many"). It is undisputed that the SEC has initiated enforcement proceedings against numerous similarly situated entities and against one individual, Present. D. 242, ¶ 10. Defendants, therefore, have not demonstrated that the SEC's initiation of proceedings against them regarding the marketing of the AlphaSector strategy selectively singled them out.

In further support of their class of one argument, Defendants claim that the SEC sought less severe remedies against the other similarly situated investment advisory firms. D. 224 at 29.

Proceedings against most of the other similarly situated entities, however, ended in settlements rather than proceeding to litigation. D. 242, ¶ 13. The SEC initially sought to negotiate a similar settlement with Defendants, but negotiations between the parties broke down. Defendants do not dispute that the SEC settled with these other similarly situated parties. See id.

Additionally, the SEC has offered a rational basis for any difference in treatment between Defendants and others similarly situated. See Wojcik v. Mass. State Lottery Comm'n, 300 F.3d 92, 104 (1st Cir. 2002) (to prove class of one selective enforcement, a party must show that "there is no rational basis for the difference in treatment") (quoting Village of Willowbrook v. Olech, 528 U.S. 562, 564 (2000)). For example, the SEC identifies three prior instances whereby the SEC had sent prior warnings to Defendants about problems in their advertising and disclosures and also warning that it would consider "recidivist behavior" when determining whether to bring enforcement actions. D. 221 at 14; D. 242, ¶¶ 35-37. The SEC also claims that Defendants' "major role in pushing AlphaSector products into the marketplace" and the evidence indicating that Navellier and other NAI personnel were aware of the false marketing and concealed it from clients contributed to any difference in treatment from other investment advisers against whom enforcement proceedings were brought regarding the AlphaSector strategies. D. 221 at 14; D. 242, ¶ 40. Defendants have failed to offer evidence disputing these rational bases for any difference in enforcement as compared to other similarly situated entities and individuals. As a result, the Court allows SEC's motion for summary judgment as to Defendants' selective enforcement defense and denies Defendants' motion for summary judgment as to the same defense.

B. Counts One & Two – Violations of Sections 206(1) and (2) of the Advisers Act

Both parties argue that summary judgment should be awarded in their favor on Counts One and Two, alleging that Defendants violated Sections 206(1) and (2) of the Advisers Act. D. 1,

¶¶ 73-82. Section 206(1) provides that it is unlawful for an investment adviser, "by use of the mails or any means or instrumentality of interstate commerce, directly or indirectly" to "employ any device, scheme, or artifice to defraud any client or prospective client." 15 U.S.C. § 80b-6(1). Section 206(2) of the Advisers Act makes it unlawful for an investment adviser, "by use of the mails or any means or instrumentality of interstate commerce, directly or indirectly," to "engage in any transaction, practice, or course of business which operates a fraud or deceit upon any client or prospective client." Id. § 80b-6(2). "[T]o establish a violation, each of these sections requires the SEC to show the investment adviser made a material misrepresentation with a culpable mental state." ZPR Inv. Mgmt. v. SEC, 861 F.3d 1239, 1247 (11th Cir. 2017) (citing Steadman v. SEC, 603 F.2d 1126, 1129-34 (5th Cir. 1979)). Section 206(1) violations require a showing of scienter, whereas Section 206(2) violations do not. Steadman, 603 F.2d at 1134 (citing SEC v. Capital Gains Research Bureau, Inc., 375 U.S. 180, 195 (1963)); SEC v. Slocum, Gordon, & Co., 334 F. Supp. 2d 144, 182 (D.R.I. 2004). Therefore, "to demonstrate a Section 206(1) violation, the [SEC] must show that the Defendants willfully or recklessly employed a device, artifice, or scheme to defraud," but "to establish a violation of Section 206(2), the [SEC] must show that Defendants failed to disclose or omitted material facts in their dealings with clients." Slocum, Gordon, & Co., 334 F. Supp. 2d at 182.

The SEC argues that the evidence shows that Defendants marketed to potential and current clients that the Vireo AlphaSector strategy had been live traded since 2001 and that Defendants were aware that they did not have any documentation or confirmation to support those assertions. D. 221 at 17. Defendants argue that they are not liable under Section 206 because there is no evidence that they "market[ed]" the strategies, they did not "make" the original false claims and certain other investment advisory firms did not discover the falsity and did not conduct due diligence but have not been similarly charged with negligent advertising. D. 224 at 32. Defendants also argue that the statements made were not false because they described the performance of a hypothetical index and not an "actual performance record." D. 235 at 30. Defendants further claim that, even if marketing materials included false information, they did not have the requisite scienter because they were not aware that the performance records of the AlphaSector strategies were false. Id.

1. False Claims

Defendants' argument that they did not market the AlphaSector strategies is inconsistent with the undisputed evidence and Defendants' own admissions. Defendants admit that they distributed AlphaSector brochures to "brokers and advisers" that would then distribute them to clients who, if interested, would be referred to NAI. D. 242, ¶ 3. Further, the suggestion that Defendants did not "make" the false statements regarding the AlphaSector strategies is inapposite where they incorporated these statements into their own marketing materials where Section 206(1) of the Advisers Act requires only that they "employ any device, scheme, or artifice to defraud" their clients. 15 U.S.C. § 80b-6(1); see Lorenzo v. SEC, __ U.S. __, 139 S. Ct. 1094, 1101 (2019) (concluding, under Rule 10b-5, that "[b]y sending emails he understood to contain material untruths, Lorenzo 'employ[ed]' a 'device,' 'scheme' and 'artifice to defraud'). The record includes multiple examples of NAI-created marketing materials that include false and misleading statements regarding the performance of the AlphaSector strategies. D. 222-27–34 (Vireo AlphaSector marketing stating that the strategies had been live tested since 2001). Although certain of these advertisements include reference to an index, they claim that the index was based on an active strategy that had an inception date of April 1, 2001 even though Defendants did not have the data to support this statement. See id. Each of these examples includes the NAI Vireo branding and was distributed by NAI personnel. Id.

Defendants also argue that the statements alleged to be false were not material because, by 2011, NAI was publishing actual performance numbers for the strategies and, therefore, any prior false statements were insufficient to support a violation of Section 206(1). D. 235 at 30. Defendants, however, cite no legal or factual support of their claim that the false and misleading statements regarding the historical performance of the strategies were immaterial to investors. See id. Kuyper admitted that the historical performance of a strategy would be material to an investor, in particular whether a strategy had been back-tested or was based on actual performance. See D. 222-68 at 2-3. "A statement is material if there is a substantial likelihood that a reasonable investor would consider it important in deciding whether or not to invest his money in a particular security." SEC v. Fife, 311 F.3d 1, 9 (1st Cir. 2002). This is especially true here as the AlphaSector strategies were marketed as defensive strategies that had been "stress tested across *two* bear markets." See D. 222-27 at 3 (emphasis in original).[3]

2. *Scienter*

"To prove scienter, a plaintiff must show 'either a conscious intent to defraud or a high degree of recklessness." SEC v. EagleEye Asset Mgmt., LLC, 975 F. Supp. 2d 151, 158 (D. Mass. 2013) (quoting SEC v. Ficken, 546 F.3d 45, 47 (1st Cir. 2008)). The record demonstrates that NAI personnel, including Navellier, were aware that the marketing was not supported by sufficient data, but that they took no steps to inform clients of the false statements and, instead, continued to sell

[3] To the extent that Defendants argue that these claims are time-barred because certain of the statements fell outside of the five-year statute of limitations, D. 244 at 3, n.2, that contention fails because record shows that they sent such marketing materials to clients within the statute of limitations. See D. 222-27–34.

the AlphaSector strategies despite their knowledge that representations about the strategies were false and misleading. After conducting due diligence on the F-Squared AlphaSector strategies, Knapp prepared an "Executive Summary" of his findings, which stated that "F-Squared flat out won't show the math to us [supporting the strategies]." D. 242, ¶ 49; D. 222-42 at 2. Defendants relied on a letter from NASDAQ in lieu of actual performance indices; however, it is clear on the record indicates that NASDAQ did not conduct any independent testing but relied upon information provided by F-Squared. D. 236-1 at 299-301. Despite this lack of support, NAI licensed and sold the AlphaSector strategies under its own branding. Navellier acknowledged that the due diligence conducted by NAI was insufficient in an email to Knapp, stating that Navellier "went to get the confirms yesterday . . . and I was told there were no confirms, just a spreadsheet . . . That is not due diligence, that is stupidity." D. 242, ¶ 56; D. 222-46 at 3. Navellier later emailed other management personnel at NAI stating that "[u]nless somebody shows me the confirms, [F-Squared] is merely a model and I am protecting the firm from potential fraud, so we must not talk about [F-Squared] being base[d] on real $ since 2001." D. 242, ¶ 57; D. 222-47. Despite this acknowledgement, Navellier further stated in the email that he was "not stopping Vireo [AlphaSector] sales." Id. Navellier acknowledged that NAI was selling AlphaSector strategies based on fraudulent representations in another email to NAI management, stating "we sold the wrong product that continues to smell like FRAUD, especially since no one can find the [F-Squared] indices" and "[m]aybe we can try to sell the Vireo managed account business . . . so you & Peter K. can have a big payday." D. 242, ¶ 58; D. 222-48. Defendants claim that emails sent by Navellier to other NAI personnel that reference fraud in relation to the AlphaSector strategies were not indicative of any true concerns, but were lies told by Navellier to NAI personnel because he wanted to scare them into no longer selling the strategies and he disliked Present. D.

242, ¶¶ 56-62. Such contention, however, does not change the fact that Defendants made the actionable statements to clients or the undisputed record that Defendants were, at a minimum, highly reckless in making statements to clients about investment strategies.

NAI further acknowledged that it was aware of problems with its due diligence and marketing in an email that Kuyper sent to Eichenlaub, a compliance officer NAI hired to conduct a review, in which Kuyper notes that NAI did not have any data to confirm the actual performance of the strategies and that this raised concerns about certain marketing claims. See D. 242 ¶ 69, D. 222-59 at 3-4. After conducting a review, Eichenlaub responded to Kuyper that NAI "must have a basis for representing [their] numbers and the legitimacy of the numbers." D. 242, ¶ 72.[4] Despite their knowledge of the inadequate due diligence and the misleading statements in their marketing, NAI did not attempt to halt sales or inform clients of the fraudulent statements, but instead began to explore opportunities to sell the Vireo AlphaSector business. Such actions demonstrate an intention to defraud clients or, at least, a high degree of recklessness in violation of Section 206(1). On this record, NAI, through their management team and Navellier in particular, were aware that they had not obtained sufficient support for the claims included in their marketing of the AlphaSector strategies and that they did not take any action to inform their clients, but instead continued to sell the strategies while exploring options for selling the business. See D. 242, ¶¶ 75, 77.

The same evidence supporting a finding in favor of the SEC on Count One, that NAI and Navellier violated Section 206(1), supports a finding that Navellier and NAI violated Section

[4] Defendants move to strike communications between NAI and ACA as privileged. D. 235 at 20-21. This Court previously considered this issue and found that the communications were not subject to either the attorney-client or the work product privilege. D. 125. Accordingly, the Court denies Defendants' motion to strike these communications.

206(2). As noted above, violations of Section 206(1) include a scienter requirement, whereas violations of Section 206(2) do not. Section 206(2) makes it unlawful to "engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client." 15 U.S.C. § 80b-6(2). For the reasons stated above, the Court concludes that the undisputed record shows that that Defendants engaged in a course of business that operated a fraud or deceit upon their clients. Accordingly, the Court allows summary judgment in favor of the SEC on Counts One and Two.

C. Counts Three and Four

Defendants seek summary judgment on Counts Three and Four. D. 224 at 33. Count Three alleges that, in the alternative to finding Navellier liable on Counts One and Two, Navellier should be found liable for aiding and abetting NAI's violations of Sections 206(1) and (2) of the Advisers Act. D. 1, ¶¶ 83-87. To establish a claim for aiding and abetting, the SEC must show "(1) a primary or independent securities law violation by an independent violator; (2) the aider and abettor's knowing and substantial assistance to the primary securities law violator; and (3) awareness or knowledge by the aider and abettor that his role was part of an activity that was improper." Slocum, Gordon, & Co., 334 F. Supp. 2d at 184 (citing SEC v. Fehn, 97 F.3d 1276, 1288 (9th Cir. 1996); Cleary v. Perfectune, Inc., 700 F.2d 774, 777 (1st Cir. 1983)). As discussed previously, NAI has violated Sections 206(1) and (2) because it included material misrepresentations in its marketing materials with knowledge that it lacked sufficient data to support its claims. Further, the evidence indicates that Navellier was aware of these misleading claims and chose not to halt sales of the AlphaSector strategies or inform clients of the false claims. See D. 222-46; 222-48; 222-64. Accordingly, the Court denies Defendants' motion for summary judgment as to Count Three.

Count Four alleges that NAI violated Section 206(4) of the Advisers Act, which makes it unlawful for an investment adviser "by use of the mails or any means or instrumentality of interstate commerce, directly or indirectly" to "engage in any act, practice, or course of business which is fraudulent, deceptive, or manipulative." 15 U.S.C. § 80b-6(4). The SEC has also promulgated rules and regulations describing the conduct prohibited. Rule 206(4)-1 states that it is a fraudulent, deceptive, or manipulative act for an investment adviser to "publish, circulate, or distribute any advertisement . . . which contains any untrue statement of material fact, or which is otherwise false or misleading." 17 C.F.R. § 275.206(4)-1. For the same reasons that NAI is liable under Counts One and Two, Defendants are not entitled to summary judgment on Count Four where NAI never obtained confirmation for the claims that it included in its marketing of the Vireo AlphaSector strategies and did not halt the sale of the strategies or inform existing clients of the misleading marketing. Thus, the Court denies Defendants' motion for summary judgment as to Count Four.

D. Injunctive Relief

Defendants seek summary judgment on the SEC's claim for injunctive relief, arguing that the SEC improperly seeks an injunction banning Defendants "for life from the securities industry" where the SEC has not sought similar relief against any similarly situated investment advisers. D. 224 at 34-35. Defendants also argue that there is no basis to bar NAI and Navellier from marketing the AlphaSector strategies because they sold the AlphaSector business to F-Squared. Id. at 35. The SEC responds that it does not seek an injunction barring Defendants from marketing the AlphaSector strategies but, rather, seeks to enjoin Defendants from engaging in actions that violate Section 206 of the Advisors Act. D. 231 at 14; see D. 1, ¶ A.

An injunction barring a defendant from violating the securities laws is "appropriate where there is, 'at a minimum, proof that a person is engaged in or is about to engage in a substantive violation of either one of the Acts or of the regulations promulgated thereunder.'" SEC v. Sargent, 329 F.3d 34, 39 (1st Cir. 2003) (quoting Aaron v. SEC, 446 U.S. 680, 700-01 (1980)). To determine whether future violations are reasonably likely, courts consider numerous factors, including "the nature of the violation, including its egregiousness and its isolated or repeated nature, as well as whether the defendants will, owing to their occupation, be in a position to violate again." Id. (citing SEC v. Youmans, 729 F.2d 413, 415 (6th Cir. 1984)); SEC v. First City Fin. Corp., 890 F.2d 1215, 1228 (D.C. Cir. 1989); SEC v. Universal Major Indus. Corp., 546 F.2d 1044, 1048 (2d Cir. 1976)). Here, the undisputed evidence indicates that, on at least three prior occasions, the SEC sent deficiency letters to Defendants identifying violations related to their marketing materials. D. 242 ¶¶ 35-37. Despite these notices, Defendants continued to violate the Advisors Act in their marketing materials. D. 242, ¶ 37. Additionally, despite their awareness that their Vireo AlphaSector marketing materials contained misleading statements, Defendants continued to use these materials and did not halt sales of the strategies or notify clients of the misleading statements. Further, as Defendants continue to operate as investment advisors, they are in a position to commit further violations of the Advisors Act. For these reasons, the Court denies Defendants' motion for summary judgment on the SEC's claim for injunctive relief.

E. Disgorgement

Defendants also seek summary judgment on the SEC's claim for disgorgement of Defendants' "ill-gotten gains and losses avoided" as a result of their violations. D. 1, ¶ D. In a securities law action, "[d]isgorgement forces the defendant to give up the amount by which he was unjustly enriched, 'even if it exceeds actual damages to victims.'" SEC v. Present, No. 14-cv-

14692-LTS, 2018 WL 1701972, at *2 (D. Mass. Mar. 20, 2018) (quoting SEC v. Cavanagh, 445 F.3d 105, 117 (2d Cir. 2006)). "The Court has discretion to enter an order of disgorgement in an amount reflecting 'a reasonable approximation of the profits causally connected to'" the violations. Id. (quoting SEC v. Happ, 392 F.3d 12, 31 (1st Cir. 2004)).

Defendants argue that the five-year statute of limitations applicable to the SEC's claims bars consideration of violations that occurred prior to August 10, 2011[5] and, thus, bars the SEC's claim for disgorgement based on marketing prior to that date. D. 224 at 35. The SEC does not dispute that the applicable statute of limitations is five years and that it "cannot seek penalties or disgorgement for violations before that time." D. 231 at 17. The Supreme Court has stated that the five-year statute of limitations applies to disgorgement in SEC enforcement actions. Kokesh v. SEC, __ U.S. __, 137 S. Ct. 1635, 1639 (2017). The Court concluded that "any claim for disgorgement in an SEC enforcement action must be commenced within five years of the date the claim accrued." Id. at 1645. The SEC seeks disgorgement of the ill-gotten gains realized when NAI sold its Vireo AlphaSector business to F-Squared in 2013. It is undisputed that these gains were realized within the applicable statute of limitations.

Defendants also argue that it is entitled to summary judgment on the SEC's claim for disgorgement in its entirety because NAI was well within its rights to sell its "goodwill" to F-Squared and there was "no obligation" on the part of NAI's Vireo AlphaSector clients to transfer their business to F-Squared following the sale of the business. D. 224 at 37. Defendants, however, ignore the fact that the value of the business, and thus the value it received in the sale, is traceable to its wrongdoing in violating the Advisers Act. In misleading clients by making claims in its

[5] The SEC claims the applicable date is August 10, 2011 pursuant to tolling agreements. D. 231 at 16, n.6.

marketing materials, Defendants were able to gain clients that they arguably would not have gained had these misleading statements been omitted. These actions contributed to the value of the Vireo AlphaSector business that Defendants then sold to F-Squared. Since Defendants have failed to meet their burden for summary judgment as to the SEC's claim for disgorgement, the Court denies their motion as to this claim.

VI. Conclusion

For the foregoing reasons, the Court DENIES Defendants' motion for summary judgment, D. 223, and ALLOWS the SEC's motion as to Defendants' fourteenth affirmative defense and Counts One and Two, D. 220.

So Ordered.

/s/ Denise J. Casper
U.S. District Judge

EXHIBIT 10

OS Received 03/16/2023

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An exciting, new, defensive ETF portfolio

Vireo Allocator Portfolio

Vireo Allocator

The **Vireo Allocator Portfolio's** primary investment goal is protecting assets during periods of extreme market downturns. Severe portfolio losses create a long-term impairment due to a "Capital Gap." This capital gap reduces the portfolio's future earnings power due to a smaller capital base and can add years to an investment portfolio's recovery. By avoiding extreme downturns, a portfolio is much better positioned to fully participate in market upturns.

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Vireo Allocator

The **Vireo Allocator Portfolio** is a balanced strategy with equity (domestic and foreign), fixed income, and alternative components. The portfolio uses a proprietary, quantitative process that identifies market sectors and asset classes in which it is prudent to be invested. As stock market volatility increases, the **Allocator Portfolio** becomes more sensitive and shifting between sectors may increase.

But the real power comes from the portfolio's ability to raise cash when conditions warrant. It is entirely possible that the **Allocator Portfolio** will raise a substantial amount of cash should conditions deteriorate beyond a certain point. Through this cash position, the strategy is better able to preserve capital and ultimately take advantage of market upswings.

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Vireo Allocator provides investors critical benefits rarely seen in long-only strategies

- **Alpha is expressed where it is needed the most**
  - Traditional managers attempt to deliver their highest alpha in strong bull markets
    - Traditional portfolios typically exhibit underperformance or modest outperformance in bear markets
  - Vireo Allocator seeks to deliver consistent alpha in "normal" markets and highest alpha in negative markets
    - However, the portfolio can lag in strong bull markets
- **Allocator has the potential to improve consistency of returns across multiple markets**

VIREO

Extreme losses can destroy any investment plan

Loss	Gain Required to Recover	Capital Gap	Years Required for Full Recovery	Years Required to Recover Capital Gap
-3.1%	**3.2%**	**0.1%**	**0.3**	**0.1**
-10.0%	11.1%	1.1%	1.0	0.1
-20.0%	25.0%	5.0%	2.0	0.4
-30.0%	42.9%	12.9%	3.3	1.1
-40.0%	66.7%	26.7%	4.7	2.2
-50.0%	100.0%	50.0%	6.3	3.7
-51.0%	**104.1%**	**53.1%**	**6.5**	**3.9**
-60.0%	150.0%	90.0%	8.4	5.9
-70.0%	233.3%	163.3%	11.0	8.8
-80.0%	400.0%	320.0%	14.7	13.1
-90.0%	900.0%	810.%	20.9	20.1

*In less than one year (5/18/2008–3/7/2009), the S&P 500 lost -51%; **full recovery requires a gain of 104%***

*During the same period, a portfolio that lost 3%; **full recovery requires a gain of 3.1%***

For Financial Consultant One-on-One Use Only. Source: F-Squared Investments, NASDAQ OMX, Morningstar, Active Index Solutions. Performance results presented herein do not necessarily indicate future performance. **Investment in equity strategies involves substantial risk and has the potential for partial or complete loss of funds invested.** Results presented include reinvestment of all dividends and other earnings. Potential investors should consult with their financial advisor before investing in any Novelier Investment Product. Please read important disclosures at the end of this presentation.

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Extreme losses can destroy any investment plan

- **Severe losses create long-term impairment due to "Capital Gap" or the difference between the actual loss of value and the gain required for full recovery**
  - Reduces future earnings power due to smaller capital base
  - Can add years to the recovery of an investment portfolio

- **Capital Gap can offset the fee advantages of passive investing**
  - Passive investing results in full participation in down markets

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OS Received 03/16/2023

Limiting risk in down markets and participating in up markets

Vireo Allocator is designed to consistently outperform its benchmarks *and* cash

- Quality downside risk management, especially in weak markets
- Powerful but simple story, and uses **NO** derivatives, leverage, or shorting

VIREO

Vireo Allocator Portfolio

- **Vireo Allocator Portfolio is designed to consistently outperform its benchmark with less downside risk**

- **How can Vireo accomplish this?**

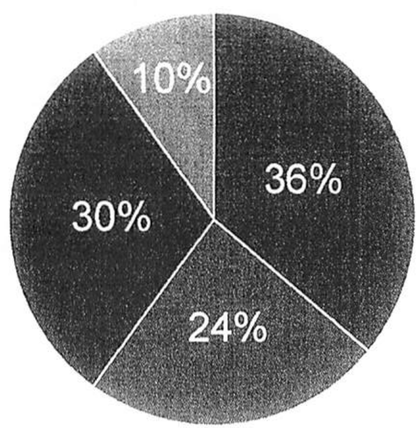
  By striving to limit risk in down markets and participating in up markets

- **NO derivatives, leverage, or shorting!**

VIREO

Vireo – Avoiding losses through diversification

Vireo Allocator covers all major asset classes. The blended index is 60% global equity, 30% fixed income, and 10% alternative. Each sector within each asset class is equally weighted, which limits downside risk.



- U.S. Equity: AlphaSector Index
- International Equity: International Index
- Fixed Income: AlphaSector Fixed Income Premium Index
- Alternatives: AlphaSector Alternatives Premium Index

U.S. Equity ETFs – 36%	
Consumer Discretionary	XLY
Consumer Staples	XLP
Energy	XLE
Financials	XLF
Healthcare	XLV
Industrials	XLI
Materials	XLB
Technology	XLK
Utilities	XLU

International Equity ETFs – 24%	
EAFE	EFA
Emerging Markets	EEM

Fixed Income ETFs – 30%	
7-year Treasuries	IEF
AAA Corporate	LQD
High Yield	HYG
Municipals	MUB
Mortgages	MBB

Alternative ETFs – 10%	
Gold	GLD
Real Estate	IYR
S&P 500	SPY

Cash Equivalent	
Short-term Treasuries (or cash equivalent)	BIL

For Financial Consultant One-on-One Use Only. Source: F-Squared Investments. Performance results presented herein do not necessarily indicate future performance. Investment in equity strategies involves substantial risk and has the potential for partial or complete loss of funds invested. Results presented include reinvestment of all dividends and other earnings. Potential investors should consult with their financial advisor before investing in any Natellar Investment Product. Please read important disclosures at the end of this presentation.

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Vireo Allocator Portfolio

Part I – AlphaSector Premium Sleeve

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Vireo — U.S. Equity: Vireo Premium Weekly Portfolio Construction Process

Vireo Premium invests in **9 Select Sector SPDR ETFs*** reflecting the primary S&P 500 sectors, plus a cash equivalent

Consumer Discretionary	XLY	Industrials	XLI
Consumer Staples	XLP	Materials	XLB
Energy	XLE	Technology	XLK
Financials	XLF	Utilities	XLU
Healthcare	XLV	Cash Equivalent**	

* Select Sector SPDRs are unique ETFs that divide the S&P 500 into nine sector index funds. Together, the nine Select Sector SPDRs represents the S&P 500 as a whole. Select Sector SPDRs have the diversity of a mutual fund, the focus of a sector fund, and the tradability of a stock.

**The Allocator Index invests in a short-term Treasury ETF (BIL) in place of the cash equivalent.

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Investment rationale of AlphaSector is based on statistical advantages of avoiding losses

- **Traditional "valuation-based" investment model is based on <u>upside capture</u>**
  - Requires unrealistic ability in avoiding extreme downside moves for full market success

- **AlphaSector "defensive allocation" model is based on <u>avoiding losses</u>**
  - Creates "odds-in-our-favor" investment design
  - Assumes missing majority of extreme upside moves
  - Simultaneously reduces overall investment risk *while* capturing excess return

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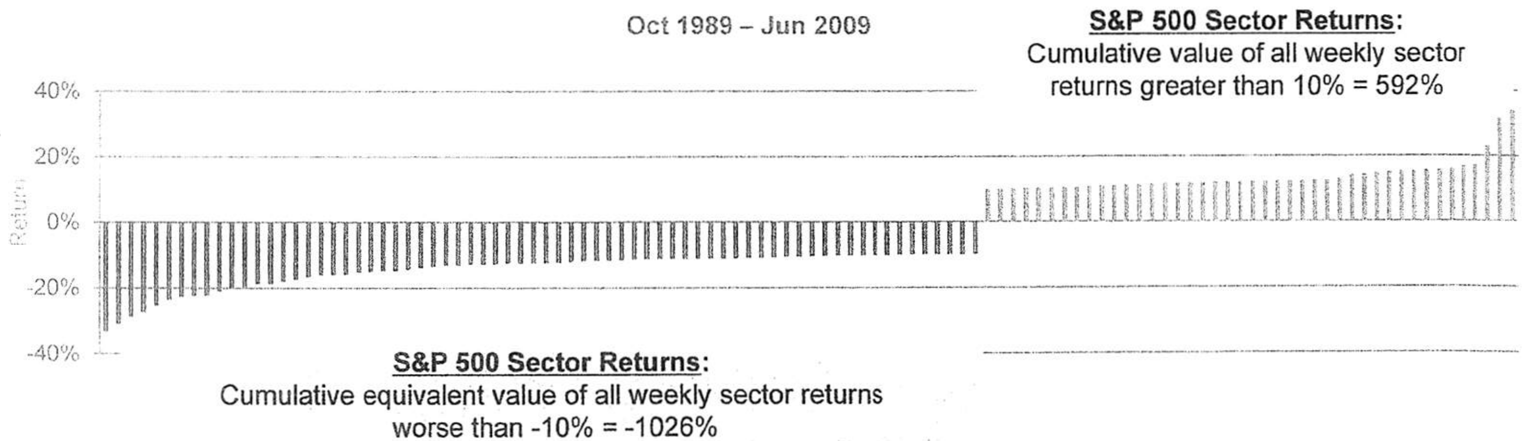
Investment rationale of AlphaSector is based on statistical advantages of avoiding losses

S&P 500 Sector Returns – Extreme Gains and Equivalent Losses*:

- Number of weeks with "extreme" losses (a weekly loss of 10% or more) are 60% more prevalent than weeks of "extreme" gains (70 vs. 43)
- The cumulative value of "extreme" losses are 70% greater than "extreme" gains (1.7 to 1 ratio)



* Since an 11.1% gain is equivalent to a 10% loss, to compare gains and losses on an equal footing, the term "Equivalent Losses" is used. An Equivalent Loss restates the actual loss to allow it to be fairly compared with a gain. As an example, a 20% actual loss has an Equivalent Loss of 25% (100 x .80% = 80; 80 x 1.25% = 100).

For Financial Consultant One-on-One Use Only. Source: I-Squared Investments, Morningstar, and Standard & Poor's "Winning by Not Losing – The Hidden Power of Defensive Allocation," June 2009. Graphs are for discussion purposes only. Performance results presented herein do not necessarily indicate future performance. Investment in equity strategies involves substantial risk and has the potential for partial or complete loss of funds invested. Results presented include reinvestment of all dividends and other earnings. Potential investors should consult with their financial advisor before investing in any Navellier Investment Product. Please read important disclosures at the end of this presentation.

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Vireo strategy description

- **Objective**
  - Makes a "probabilistic" determination of risk of loss for each ETF
  - Does not use valuation metrics and does not determine relative high or low valuations

- **Key inputs**
  - Historical price returns for each ETF
    - Used to generate rolling moving averages for each ETF
  - Volatility
    - Comparison of near term volatility to historical volatility allows a statistical adjustment to eliminate near term "market noise"
  - Changing levels of volatility
    - Increasing levels of volatility results in the window size for the rolling moving averages to compress, increasing sensitivity to near market results
    - Decreasing volatility levels expands the window size, increasing stability

- **Output**
  - Determination of forecasted performance relative to cash returns (binary decision)
    - Results in asset class ETFs either included or removed from the portfolio

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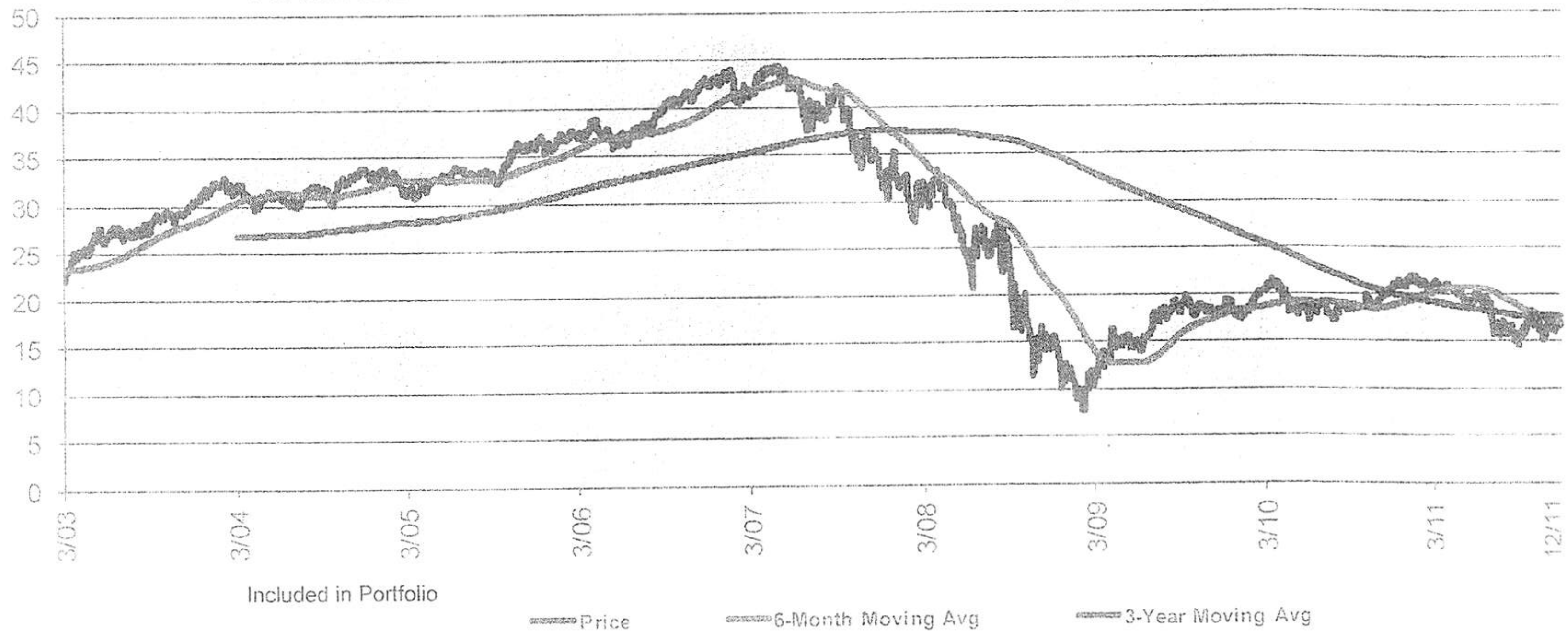
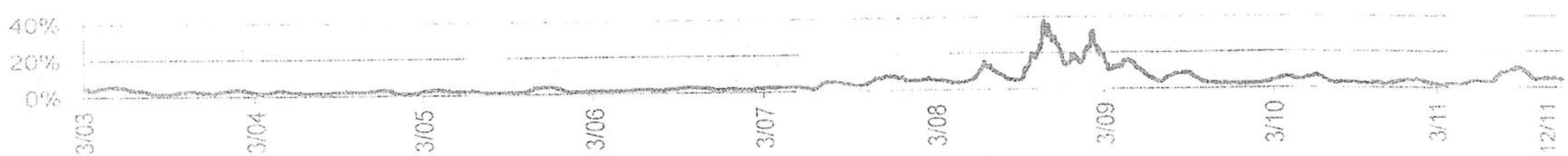
Vireo Strategy — Financial ETF (XLF) showing price returns, rolling moving averages, and volatility

Financial Price Movement Relative to Moving Average



3-Month Standard Deviation



For Financial Consultant One-on-One Use Only. April 2001 to March 2012. Source: Morningstar, F-Squared Investments. Graphs are for illustration and discussion purposes only and may or may not reflect actual results of the application of the investment process used by the Navellier Vireo AlphaSector Premium strategy at the time of publication of this presentation. Performance results presented herein do not necessarily indicate future performance. Investment in equity strategies involves substantial risk and has the potential for partial or complete loss of funds invested. Results presented include reinvestment of all dividends and other earnings. Potential investors should consult with their financial advisor before investing in any Navellier Investment Product. Please read important disclosures at the end of this presentation.

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Vireo – U.S. Equity: Vireo Premium Weekly Portfolio Construction Process

- **Sector ETFs are traded using a "binary model"**
  - An ETF is either ***in*** or ***out*** of the portfolio
  - Sectors with positive return forecasts remain in the portfolio while sectors forecasted to lose money are removed entirely
  - Buy or sell decisions are based on a proprietary, quantitative model, developed over a 9-year period

- **Sectors that remain in the portfolio are equally weighted at the time of rebalancing, with a maximum cap of 25% for any sector ETF**

- **When 6 or more sectors are removed, Vireo begins building a "cash" position in the U.S. Equity sleeve using the cash equivalent***
  - Each sector ETF has a 25% weighting with the remaining amount allocated to the short-term Treasury ETF
  - If all 9 sector ETFs are removed, the asset class will be 100% cash

*The Allocator Index invests in a short-term Treasury ETF (BIL) in place of the cash equivalent.

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Vireo Allocator Portfolio

Part II –International Sleeve

[illegible] Investment in equity strategies involves substantial risk and has the potential for partial or complete loss of funds invested. [illegible] presentation.

VIREO

Vireo – Vireo International Weekly Portfolio Construction Process

Vireo International invests in **2 iShares® international ETFs** reflecting the two most liquid international equity markets, plus a cash equivalent that is used when less than a full allocation is given to one of the international ETFs

Developed Markets	EFA
Emerging Markets	EEM
Cash Equivalent*	

*The Allocator Index invests in a short-term Treasury ETF (BIL) in place of the cash equivalent.

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Vireo —Vireo International Weekly Portfolio Construction Process

- International ETFs are traded based on sector decision-making from the AlphaSector U.S. Equity Indexes
  - A custom set of U.S. sectors were selected to be paired with each international ETF based on correlations to international markets across multiple market cycles
  - Using a proprietary quantitative model, sectors with positive return forecasts remain in the portfolio, sectors forecasted to lose money are removed entirely
- ETFs that remain in the portfolio receive a 50% weighting, with the remaining allocation, if any, going to "cash" using a cash equivalent
- If both ETFs are removed, the International Equity sleeve will be 100% cash

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Vireo Allocator Portfolio

Part III –Fixed Income Sleeve

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Vireo —Fixed Income Sleeve Methodology

Example of factors considered for each asset class:

Economic	Valuation	Technical
Inflation	Relative	Moving Average
Housing	Historical	Trendlines
GDP		
Exports/Imports		

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Vireo – Fixed Income Weekly Portfolio Construction Process

Vireo Fixed Income invests in **4 iShares® fixed income ETFs** reflecting key asset classes within the broader fixed income category, plus a Treasury note ETF that is always included.

AAA	LQD
High Yield	HYG
Municipals	MUB
Mortgages	MBB
7-year Treasuries	IEF

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Vireo — Fixed Income Weekly Portfolio Construction Process

- Using a proprietary quantitative model, fixed income ETFs with positive return forecasts remain in the portfolio while the fixed income ETFs forecasted to lose money are removed entirely

- Fixed income ETFs that remain in the portfolio are equally weighted at the time of rebalancing, with a maximum cap of 33% for any ETF

- When three or more fixed income ETFs are removed, the fixed income sleeve begins building a "cash" position using the 7-year Treasury ETF
  - If all four fixed income ETFs are removed, the sleeve will be 100% cash

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Vireo Allocator Portfolio

Part IV –Alternative Investments Sleeve

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Vireo —Alternative Investments Sleeve Methodology

Example of factors considered for each asset class:

Economic	Valuation	Technical
Inflation	Relative	Moving Average
Housing	Historical	Trendlines
GDP		
Exports/Imports		

[illegible] Results presented herein do not necessarily indicate future performance. Investment in equity strategies involves substantial risk and has the potential for partial or complete loss of funds invested. [illegible] other earnings. Please read important disclosures at the end of this presentation.

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Vireo – Alternative Investments Weekly Portfolio Construction Process

Vireo Alternatives invest in **2 iShares® alternative ETFs** reflecting key "alternative investment" segments, a SPDR ETF tracking the S&P 500, plus a cash equivalent

Gold	GLD
Real Estate	IYR
S&P 500	SPY
Cash Equivalent*	

Gold and Real Estate ETFs are used because of their broad appeal in the marketplace and their large trading capacity

*The Allocator Index invests in a short-term Treasury ETF (BIL) in place of the cash equivalent.

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Vireo — Alternative Investments Weekly Portfolio Construction Process

- Using a proprietary quantitative model, alternative ETFs with positive return forecasts remain in the portfolio while alternative ETFs forecasted to lose money are removed entirely

- Alternative ETFs that remain in the portfolio receive a 50% weighting, with the remaining allocation, if any, going to either the S&P 500 ETF or "cash" using a cash equivalent
  - Investment is the S&P 500 ETF unless the U.S. Equity sleeve has begun building a cash position, in which case the allocation will be to the cash equivalent
  - If each of the alternative ETFs and the S&P 500 ETF are eliminated, the Alternative Investments sleeve will be 100% cash

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Vireo Allocator Portfolio

Part V – Results

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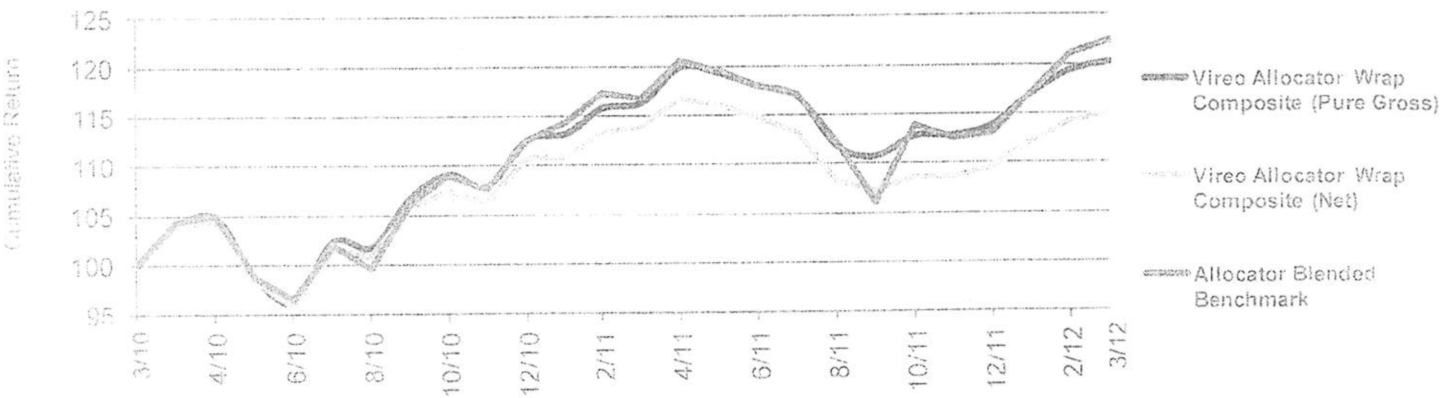
Vireo Allocator Wrap Composite

Vireo Allocator Wrap Composite Performance
March 2010 – March 2012



As of Mar 2012

	Vireo Allocator (Pure Gross)	Vireo Allocator (Net)	Allocator Blended Benchmark
Annualized Returns			
1Q12	5.6%	5.0%	8.3%
1 YR Return	3.4%	1.1%	4.8%
Since Inception Return (3/1/10)	9.2%	7.0%	10.2%
Calendar Year Returns			
2011	1.2%	-1.1%	0.4%
2010 (10 months)	12.5%	10.8%	12.6%

As of Mar 2012

	Vireo Allocator (Pure Gross)	Vireo Allocator (Net)	Allocator Blended Benchmark
Cum. Return	20.2%	15.1%	22.5%
Max Drawdown	-8.1%	-8.2%	-11.9%
Std. Dev.	9.6	9.4	12.3
Alpha	2.1	0.2	0.0
R-Squared	80.0	77.6	100
Beta	0.7	0.7	1.0
Ann. Excess Return	-1.0	-3.3	0.0
Up Capture Ratio	73.1	65.1	100
Down Capture Ratio	69.1	72.5	100

For Financial Consultant One-on-One Use Only. Source: Navellier & Associates, Zephyr StyleAdvisor. Graphs are for discussion purposes only. Performance results presented herein do not necessarily indicate future performance. Investment in equity strategies involves substantial risk and has the potential for partial or complete loss of funds invested. Results presented [illegible] of dividends and other earnings. [illegible] before investing in any Navellier Investment Product. Please read important disclosures at the end of this presentation.

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About Navellier & Associates

- Founded in 1987 by renowned growth analyst Louis Navellier
  - SEC registered investment management firm
  - Disciplined, quantitative process designed to maximize returns while controlling excessive risk
  - Manages assets for a variety of clients including high-net-worth individuals, public plans, corporate pension funds, endowments, and foundations
  - $3.3 billion in assets under management
  - Headquartered in Reno, NV

- Independent and employee owned
  - Dedicated staff, including a seasoned portfolio management team
  - 10 committed and experienced investment professionals trained in cutting edge, statistically based investment strategies
  - No portfolio management or research personnel turnover in past 5 years

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Important Disclosures

Navellier does not calculate the statistical information included herein. This material has been prepared solely for informative purposes. F-Squared is the source of all performance data related to the F-Squared AlphaSector Indexes cited in these reports. Although information contained herein is based on sources Navellier believes to be reliable, Navellier does not guarantee its accuracy, and the information may be incomplete or condensed. Statistical analyses of the data presented are provided by Zephyr Associates, a company not related to Navellier. Information presented herein and the related Zephyr sourced information is provided on an "as is" basis. The user assumes the entire risk of any use made of this information. Investors should consider the report as only a single factor in making their investment decision. The report is for informational purposes only and is not intended as an offer or solicitation for the purchase or sale of a security. Zephyr sourced information is the exclusive property of Zephyr Associates. Without prior written permission of Zephyr Associates, this information may not be reproduced, disseminated, or used to create any financial products.

Potential investors should consult with their financial adviser before investing in any Navellier Investment Product.

VIREO ALLOCATOR WRAP COMPOSITE

Reporting Currency U.S. Dollar

Year	Firm Assets ($M)	Composite Assets ($M)	Percentage of Firm Assets	Number of Accounts	Composite Pure Gross Return (%)	Composite Net Return (%)	Allocator Blended Benchmark Return (%)	Composite Dispersion (%)
2011	2,719	378	14%	1,803	1.19	-1.05	0.43	0.42
2010[1]	2,365	73	3%	358	12.53	10.75	12.59	N/A[2]

[1]Performance calculations for the period ended December 31, 2010 only includes 10 months of history.

[2]N/A information is not statistically meaningful due to an insufficient number of portfolios in the composite for the entire year.

1. Compliance Statement – Navellier & Associates, Inc. claims compliance with the Global Investment Performance Standards (GIPS®) and has prepared and presented this report in compliance with GIPS standards. Navellier & Associates, Inc. has been independently verified for the periods January 1, 1995 through September 30, 2011 by Ashland Partners & Company LLP. Verification assesses whether (1) the firm has complied with all the composite construction requirements of the GIPS standards on a firm-wide basis and (2) the firm's policies and procedures are designed to calculate and present performance in compliance with the GIPS standards. The Vireo Allocator Wrap Composite has been examined for the periods March 1, 2010 through September 30, 2011. The verification and performance examination reports are available upon request.

2. Definition of Firm - Navellier & Associates, Inc. is a registered investment adviser established in 1987. Navellier & Associates, Inc. manages a variety of equity assets for primarily U.S. and Canadian institutional and retail clients. The firm's list of composite descriptions as well as information regarding the firm's policies for valuing portfolios, calculating performance, and preparing compliant presentations are available upon request.

3. Composite Description - The Vireo Allocator Wrap Composite includes all discretionary Vireo Allocator equity accounts that are charged a wrap fee and are managed with similar objectives for a full month, including those accounts no longer with the firm. The strategy attempts to track an index known as the AlphaSector Allocator Premium Index ("Index"). Navellier & Associates, Inc. pays a licensing fee to F-Squared Investments, Inc. to provide a model of the Index. The Index "sleeves" are allocated as follows: 36% consists of the AlphaSector Premium Index, 30% consists of the AlphaSector Fixed Income Premium Index, 24% consists of the AlphaSector International Premium Index, and 10% consists of the AlphaSector Alternatives Premium Index. The AlphaSector Premium Index is quantitatively driven and applies a weekly trading protocol to nine Select Sector SPDRs and an exchange traded fund ("ETF") representing 1-3 month Treasuries. Note that in the place of the 1-3 month Treasuries in each "sleeve," Vireo Allocator accounts managed by Navellier & Associates, Inc. may invest in a cash equivalent, such as money market funds. The index has the potential to be invested in any combination of the nine SPDRs including all nine at the same time, a combination of sector SPDRs and the Treasury ETF, or can be 100% invested in the Treasury ETF. The AlphaSector Fixed Income Premium Index is quantitatively driven and applies a weekly trading protocol to four fixed income ETFs along with a 7-year Treasury ETF. The index has the potential to be invested in a combination of the four fixed income ETFs and the Treasury ETF or can be 100% invested in the Treasury ETF. The AlphaSector International Premium Index is quantitatively driven and applies a weekly trading protocol to two international equity ETFs, representing developed international markets and emerging markets, along with a 1-3 month Treasury ETF. The index has the potential to be invested in a combination of the two international ETFs, a combination of the international ETFs and the Treasury ETF, or can be 100% invested in the Treasury ETF. The AlphaSector Alternatives Premiium Index is quantitatively driven and applies a weekly trading protocol to two alternative ETFs, representing real estate and gold, and either an S&P 500 ETF or a 1-3 month Treasury ETF. The index has the potential to be invested in a combination of the alternative ETFs or a combination of the alternative ETFs and the S&P 500 ETF or the 1-3 month Treasury ETF if the AlphaSector Premium Index has any exposure to the Treasury ETF. There is no guarantee that Navellier will achieve returns similar to the index, and in fact the strategy's returns may vary from the index due to the timing of trades and after fees are taken into account, including management fees, brokerage or transactions costs, or other administrative or custodian fees. Performance is calculated on a "time-weighted" and "asset-weighted" basis. Performance figures that are net of fees take into account advisory fees and any brokerage fees or commissions that have been deducted from the account. "Pure" gross-of-fees returns do not reflect the deduction of any trading costs, fees, or expenses, and are presented only as supplemental information. Performance results are total returns and include the reinvestment of all income, including dividends. The composite was created March 1, 2010. As of April 2012, the Vireo AlphaSector Allocator Premium Wrap Composite has been renamed the Vireo Allocator Wrap Composite. Valuations and returns are computed and stated in U.S. Dollars.

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4. Management Fees - The management fee schedule for accounts ranges from 75 to 100 basis points, depending on account size and brokerage selected. Some incentive fee, fixed fee, and fulcrum fee accounts may be included. Fees are negotiable, and not all accounts included in the composite are charged the same rate. Bundled fee accounts make up 100% of the composite for all periods shown. Fee schedules are provided by independent sponsors and are available upon request from the respective sponsor. The bundled fees include custody, trading expenses, and other expenses associated with the management of the account. The client is referred to the firm's Form ADV Part 2A for a full disclosure of the fee schedule.

5. Composite Dispersion - If applicable, the dispersion of annual returns is measured by the standard deviation across asset-weighted portfolio returns represented within the composite for the full year.

6. Benchmark - The Allocator Blended Benchmark is a blended benchmark using the following indices: S&P 500 (45%), MSCI World ex U.S. (25%), and Barclays Capital U.S. Aggregate Bond Index (30%). The benchmark is rebalanced daily. The S&P 500 Index measures the performance of the 500 leading companies in leading industries of the U.S. economy, focusing on the large cap segment of the market, with approximately 75% coverage of U.S. equities. The MSCI World ex U.S. Index is a free float-adjusted market capitalization weighted index that is designed to measure the equity market performance of developed markets. As of June 2011, the MSCI World ex U.S. Index consisted of the following 23 developed market country indices: Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Hong Kong, Ireland, Israel, Italy, Japan, the Netherlands, New Zealand, Norway, Portugal, Singapore, Spain, Sweden, Switzerland, and the United Kingdom. MSCI World ex U.S. Index targets 85% of the free float adjusted market capitalization. The Barclays Capital U.S. Aggregate Bond Index is a broad-based benchmark that measures the investment grade, U.S. dollar-denominated, fixed-rate taxable bond market, including Treasuries, government-related and corporate securities, MBS (agency fixed-rate and hybrid ARM passthroughs), ABS, and CMBS. The returns for the index includes the reinvestment of any dividends. The asset mix of the composite may not be precisely comparable to the presented index. Presentation of index data does not reflect a belief by the Firm that the Allocator Blended Benchmark, or any other index, constitutes an investment alternative to any investment strategy presented in these materials or is necessarily comparable to such strategies. As of October 2011, the Dow Jones Moderate Global Index is no longer listed as the primary benchmark because it is not a reasonable representation of the investment strategy because it lacks exposure to fixed income. As of October 2011, the AlphaSector Allocator Blended Index has been renamed the Allocator Blended Benchmark.

7. General Disclosure - The three-year annualized standard deviation is not presented because 36 months of history is not available. Actual results may differ from composite results depending upon the size of the account, custodian related costs, the inception date of the account and other factors. Performance results presented herein do not necessarily indicate future performance. Investment in equity strategies involves substantial risk and has the potential for partial or complete loss of funds invested. Results presented include reinvestment of all dividends and other earnings. The securities identified and described do not represent all of the securities purchased, sold, or recommended for client accounts. It should not be assumed that any securities recommendations made by Navellier in the future will be profitable or equal the performance of securities made in this report. A list of recommendations made by Navellier & Associates, Inc. for the preceding twelve months is available upon request.

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CERTIFICATE OF SERVICE

I hereby certify that the **RESPONDENTS' APPENDIX OF EXHIBITS IN OPPOSITION TO THE SEC'S MOTION FOR SUMMARY JUDGMENT - VOLUME 1 OF 2 - EXHIBITS 1 – 10** was filed on March 16, 2023 via eFAP and emailed per stipulation to counsel for the Securities and Exchange Commission to

jonesmarc@sec.gov
cardelloj@sec.gov
bakerr@sec.gov
donahuew@sec.gov

and served on

Jennifer A. Cardello
Marc J. Jones
William J. Donahue
Robert B. Baker
SECURITIES AND EXCHANGE COMMISSION
33 Arch Street, 24th Floor
Boston, MA 02110

by first class U.S. Mail pursuant to SEC Rule 150(c) on this 16th day of March 2023.

Dated: March 16, 2023

By: /s/ *Samuel Rolnick*
Samuel Rolnick

OS Received 03/16/2023

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No. 5520/ June 12, 2020

ADMINISTRATIVE PROCEEDING
File No. 3-19826

In the Matter of

LOUIS NAVELLIER and
NAVELLIER & ASSOCIATES, INC.

Respondents.

RESPONDENTS' APPENDIX OF EXHIBITS IN OPPOSITION TO THE SEC'S MOTION FOR SUMMARY JUDGMENT

VOLUME 2 OF 2

EXHIBITS 11 - 42

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26	Louis Navellier Deposition Testimony re he did not disseminate or advise re Vireo Louis Navellier Deposition Testimony re he did not want his name on Vireo	08/12/2019 11/08/2018	2	224-3 224-4	5 of 269 6 of 269 10 of 269 78 of 583 79 of 583 80 of 583
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33	Notices of Appeal	10/18/2021 09/23/2022	2	366 387	1 of 71 – 2 of 71 1 of 12 – 2 of 12
34	Ken Zanonni SEC Interview Notes	11/16/2020 03/13/2017	2	344	55 of 104 – 62 of 104
35	Baker Deposition Testimony re Immateriality of Historical Performance	08/12/2019 03/28/2019	2	224-6	198 of 428 and 200 of 428
36	Vireo Marketing – NAI's Disclosure of Its Actual Performance	08/12/2019	2	224-3	188 of 269 – 189 of 269 And 197 of 269 198 of 269
37	Economic Study re Immateriality of Historical Performance	12/21/2017	2	363-10	2 of 6 – 6 of 6

38	Vireo Outperforms Benchmark in Down Markets	08/12/2019	2	224-3	237 of 269
39	Knapp Deposition Testimony re Offer to Buy Vireo and Louis Navellier Early Effort to Sell Vireo Navellier De[position Testimony	09/03/2019 08/12/2019 11/08/2018	2	236-7 224-4	417 of 465 418 of 465 547 of 583 548 of 583
40	Louis Navellier Deposition excerpt re Explanation for Sale	08/12/2019 11/08/2018	2	224-4	542 of 583 543 of 583 544 of 583
41	Loepker Deposition Testimony re Wells Fargo Advisors sold NAI Vireo Strategies to WFA Clients	09/03/2019 05/07/2019	2	236-8	162 of 249 163 of 249 164 of 249 166 of 249
42	Settlement Offer Settlement Offer	08/12/2019 12/21/2017 03/07/2018	2	224-6	114 of 428 115 of 428 203 of 428 204 of 428

EXHIBIT 11

OS Received 03/16/2023

NASDAQ OMX

October 26, 2009

David Martin
Chief Compliance Officer
Virtus Investment Partners
100 Pearl Street
Hartford, CT 06103

Dear Mr. Martin,

The attached document is a summary of the activity that NASDAQ OMX conducted on behalf of F-Squared Investments and the AlphaSector Rotation Index. Please do not hesitate to contact me if I can be of further benefit.

I have also reviewed the letter from Howard Present of F-Squared Investments to you dated October 12, 2009, and find that it is factual and accurate in regard to all references to NASDAQ.

Sincerely,

[redacted]

Robert J. Hughes
Director - Index Services - Global Financial Products
NASDAQ OMX Group

EXHIBIT
PENGAD 800-631-6989
403
6/25/19

A Summary of Activity by NASDAQ OMX on Behalf of F-Squared Investments' AlphaSector Rotation Index (ASRX and ASRN):

In August, 2008 F-Squared Investments approached our firm with the intent of having NASDAQ act as a calculation agent for purposes of calculating and disseminating the values of their Index to various market data vendors. In early September, 2008 we completed the contract negotiations and began the process of converting their existing live investment strategy to a daily valued, public index.

F-Squared provided a broad spectrum of data to us in order for us to begin the project. Our delivery requirements were to calculate the historical return stream reflecting their active investment strategy in a manner that was as consistent as possible within an index environment, as well as to begin daily calculation and dissemination as soon as possible. We went live with the daily calculation component on October 13, 2008, with the ticker symbols ASRX (dividends and interest reinvested) and ASRN (price only).

F-Squared provided NASDAQ the following data and information:

- Portfolio Construction Methodology (which is included as Exhibit A);
- Constituents of the index, currently and historically;
- Portfolio trade decisions, which F-Squared referred to as "Signals". These Signals reflected the actual output of their proprietary analytical model historically, and when used in conjunction with the Methodology and Constituency allowed us to recreate their historical track record using our data feeds and calculation engine;
- Confirmation that the data was approved by their Index Investment Committee.

F-Squared is the Manager for the index, has provided confirmation that they, through their subsidiary Active Index Solutions, own the IP associated with the index, and provide us the ongoing data feeds that allows NASDAQ to rebalance and reconstitute the index on a monthly basis.

The aspects of this strategy that facilitated its conversion to a daily valued index are the following:

- A rule based portfolio construction methodology;
- A quantitatively driven investment decision process;
- Historical output reflecting the actual strategy trading decisions;
- Supervision and oversight by a credible index Investment Committee;
- Periodic trading decisions (e.g. monthly).

There were a few items that had to be worked through in order to successfully recreate the historical track record and prepare daily calculations. These were resolved in a manner that met industry standards as we define them regarding index calculations.

First, the ETF that is used as a cash proxy was not available back to the inception date of the track record. We worked with F-Squared to identify an appropriate non-ETF return proxy to use for periods prior to the availability of the Treasury ETF.

Second, the timing of data feeds from F-Squared to NASDAQ needed to be worked through. The agreed to final approach was for F-Squared to deliver to our operations team the updated index holdings and weights on the Monday prior to the last Friday in the month. We construct the index on a pro forma basis based on start of day pricing for that Monday, but do not implement the new index structure until the close of business on the following Friday. The final weights used reflect the appropriate market

Impact from Monday through Friday's close. This approach was used consistently in the calculation of all historical index values.

I understand that some of the drivers behind requesting this letter are in regard to the assessment of the inception date of the index. We understand that this is a situation that occurs from time to time, especially when index calculation agents are changed after inception of an index, and is not necessarily unique to ASRX. There is of course a material difference between backtested data and historical data. The key facts as I understand them are:

1. NASDAQ OMX began publishing and disseminating the index value on a daily basis beginning October 13, 2008. We began generating the index values prior to October 13, 2008 for internal purposes, but these data points were not disseminated on a live basis.
2. NASDAQ calculated historical values of the index back to the inception date as defined by F-Squared. It is our understanding that all ASRX and ASRN values that F-Squared publishes are the values calculated by NASDAQ.
3. NASDAQ calculated the historical data based on data feeds provided to us. This data was indicated to represent live, historical investment decisions, and was to have been reviewed and approved by their Investment Committee.
4. In the week preceding the date that NASDAQ initially began disseminating the ASRX and ASRN values, we distributed to the industry's market data vendors a package of information, including 1) index name and ticker symbol, 2) index description, and 3) historical track record as calculated by our firm. The historical track record went back to the inception date of April 1, 2001.

One question that has been asked of us is the availability of historical index values on our website, specifically index values that would proceed the date we began publicly disseminating index data.

The difficulty we have in providing this from our public database is that, prior to publishing the index values on our main production platform, we use a secondary database to calculate the historical returns, verify methodology accuracy, and run the index on a simulated basis for a test period prior to live production. Our systems do not currently allow us to transfer these historical index values to our production platform retroactively.

This is a concern that has appeared for other clients as well. To resolve this concern, we will shortly be making available the historical index values on our website for several clients, including F-Squared, however these data sets will still not be available on the production platform. It will clearly indicate that the index values have been calculated by NASDAQ using a methodology and approach identical to that currently in use. We anticipate completing this effort for F-Squared within the next several weeks.

If I can be of any further support, please let me know.

Sincerely,

Robert J. Hughes
Director - Index Services - Global Financial Products
NASDAQ OMX Group

Exhibit A: ASRX – AlphaSector™ Rotation: Index Construction Methodology

The AlphaSector™ Rotation Index (ticker symbol ASRX, the "Index") is a quantitatively driven index that mirrors an investment strategy that dates back to 2001. The Index is governed by the Index Investment Committee of Active Index Solutions, LLC ("AIS"). AIS is a wholly owned subsidiary of F-Squared Investments Inc, and is exclusively in the business of constructing and licensing index products.

The AIS Index Investment Committee is responsible for approving the analytical engine determining buy and sell signals for the Index, and requires a 80% approval vote for any changes to the model. The Committee meets at least annually to review the Index and investment methodology.

The Index is calculated and disseminated on behalf of Active Index Solutions, LLC by NASDAQ OMX.[1]

Index Construction

The eligible investments within the Index are the nine Select Sector SPDRs exchange traded funds ("ETFs") and an ETF representing 1 – 3 month Treasuries (ticker BIL). The Index has the potential to be invested in any combination of the nine SPDRs including all nine at the same time, a combination of sector SPDRs and the Treasury ETF, or can be 100% invested in the Treasury ETF.

The Index is re-evaluated for modifications to the existing constituency on a monthly basis, as well as rebalanced on a monthly basis. The decisions for which sector ETFs are included in the portfolio at any time is made by a proprietary analytical engine that evaluates "true" sector trends while adjusting for market noise and for changing levels of volatility in the market. This engine has been developed over a period of time dating back to 2001, and has had Private Wealth Client assets managed based on its output over that entire time period.

The Index uses a binary model for determining weights of represented sector ETFs. If a sector receives a positive signal for investing, it is included in the Index. If a sector receives a neutral or negative signal, it is removed from the Index. All sectors represented are equal weighted, with a maximum allocation capped at 25% of the Index at the time of rebalancing.

If there are 3 or fewer sectors represented at a given time, the remainder of the portfolio (reflecting the 25% maximum cap per sector) is invested in the short term Treasury ETF (ticker BIL), representing cash equivalents. The Index can be 100% invested in BIL if all sectors receive a neutral or negative rating at the time of reconstitution.

The Index is reconstituted and rebalanced at the close of trading on the last Friday of every month. If the market is closed on the last Friday, it would be reconstituted at the end of trading on the prior Thursday.

There are two performance track records generated for the Index, reflecting a Price Return (ASRN) and a Total Return (ASRX) calculation. ASRX reflects a reinvestment of all dividends and interest distributions made by any of the underlying ETFs.

EXECUTIVE SUMMARY

f2 – F-SQUARED INVESMENTS

October 5, 2009

Introduction

F2 is a registered investment advisor that provides research in the form of 2 sector ETF indices. They have two index products (1) a lower cost monthly program and (2) a higher cost ("Premium") weekly program. The index holdings for both products are driven by a momentum/statistical model that generates buy and sell signals. The model is based primarily on pricing and different rolling average time series, with a VIX overlay. The indices' performances show high single digit annual returns with attractive/low single digit monthly standard deviation. Virtus, an $8.2B fund shop, completed its due diligence and signed an exclusive with f2 for use of their monthly model in 40 Act funds. Other advisors are signing on, for example, Essex ($2.3B AUM).

Opportunities

Given the low volatility, high single digit steady returns, f2 may be a desirable low volatility "aging boomer" product for Navellier. Navellier would enter a "Model Manager" agreement with f2 to receive the trading signals.

1. Navellier might brand an alpha sector-based product using the f2 provided research. F2 has agreed to some exclusivity, likely geographical and with earn-in milestones.
2. The research may have application to existing products by providing an indication of which sectors to overweight.
3. F2 has indicated that it will refer clients/advisors to a Navellier AlphaSector product.

Original Source of the Trading System

The AlphaSector trading system was originally developed and used by a large wealth management group ("Wealth") located on the east coast. They are not in the business of promoting such systems and therefore licensed it to f2. There is a confidentiality agreement that prevents f2 from divulging who they are. The licensing agreement with Wealth is terminable by either party on 90-days notice. If f2 terminates, f2 is obligated to pay in perpetuity the fee based on the AUM at date of termination. If Wealth terminates, f2 is not prevented from using the technology/math behind the system; f2 would be please if Wealth terminated. F2 doesn't terminate because they like the business partnership and "we don't do business that way, a deal is a deal" (Rubbish!).

The Trading System

F2 describes the system as a statistical, mechanistic price pattern recognition program that produces probability/predictive measures of price direction (this is Bob Barnes' language). F2 states that the

EXHIBIT 12

OS Received 03/16/2023

EXHIBIT
#84

In The Matter Of:

Securities and Exchange Commission v.
Howard B. Present

Howard Brian Present
February 16, 2016

Behmke Reporting and Video Services, Inc.
160 Spear Street, Suite 300
San Francisco, California 94105
(415) 597-5600

Original File 28762Present.txt
Min-U-Script® with Word Index

Page 97

A. We eventually came up with a formal decision. The -- the date that we wanted to start with was designed to match what -- when Morton started running live assets. For this, this is just a pricing template. So as long as it went at least as far back as that, that would have been fine.
Q. And when did you -- when did Morton Financial start applying its sector rotation strategy to ETF's?
A. We were informed, or at least I was informed by him of April of 2001.
Q. Okay. Did you ever see anything in writing that showed that that was true?
A. Not for the April 1st of 2001 in writing. I haven't seen anything that specifies that.
Q. Wasn't it important, if that was going to be the start date for the AlphaSector index, and if you were intending to match that index to something that Morton Financial had actually done, wasn't it kind of important to find out what they really did and not just take Mr. Morton's word for it?
A. Well, he provided in writing an email confirmation that there is a five-year track record for the sector rotation strategy with live client assets, and then in subsequent communications

Page 98

between him and Mr. Hoffstein or from him and Mr. Hoffstein, they indicated that they actually went prior to that, and I believe the final determination of April of 2001, which added a year and a half or so on to it, came from a phone conversation.
Q. Do you have any notes of that phone conversation?
A. Not that I've seen.
Q. All right. Let's go to the next exhibit.
Actually, before we do, Mr. Present, I'm sorry. Who was that phone call with?
A. Mr. Morton.
Q. And when did it take place?
A. I believe in early September of 2008.
Q. Before or after F-Squared entered into the data provider agreement?
A. I believe it was after.
Q. Okay. Well, let me show you what was previously marked as Deposition Exhibit 48.
A. (Pause.) Okay.
Q. Is -- is Exhibit 48 a chain of emails between yourself and Mr. Morton on August 26th, 2008?
A. Yes.
Q. And if you look at the early -- your

Page 99

early -- the earliest email in the chain, which starts at the bottom of the first page and carries over, were you telling Mr. Morton about some -- a meeting you had had with Mr. Hoffstein?
A. Yes.
Q. And when you wrote "His new approach is thoughtful, and creates a lot more resolution," what did you mean?
A. Well, as I recall, or certainly as some of this -- my memory's been refreshed, but he walked me through -- "he" being Mr. Hoffstein had a presentation deck, and they walked through me and -- and probably Mr. Vargas through the operations of the current algorithm that was in place. I think you've referred to this as the Hoffstein algorithm. And we got some insight into some of the technology and mathematics that went into it. And in this case, I'd be saying that it creates better resolution on buy and sell timing than the simple moving average version prior.
Q. Okay. And in this context, what does "resolution" mean?
A. It's in all likelihood referring to the accuracy of when to buy and when to sell.
Q. So was it your understanding at this point

Page 100

that Mr. Hoff -- well, strike that.
Was Mr. Hoffstein still working on the algorithm, as you understood it, here in late August 2008?
A. Well, as I testified earlier, I tend to view these things as always work in product -- or work in process. So I assumed he was still working on making enhancements.
Q. And then -- all right. And then you wrote, "The original data/approach was based off of rolling 40-week periods."
Is that another way of referring to the simple moving average?
A. Yes.
Q. Over a 40-week period?
A. Yes.
Q. Okay. And then you asked a couple of questions about how long live money had been managed against it and was the original model similar to the rolling 40-week version. Is that -- did I sort of summarize that okay?
A. Yes.
Q. All right. If you'll look at the next email --
MR. COLLORA: Next email in that same exhibit?

Q. No. It's all right.

MR. HUNTINGTON: Okay. Mr. Present, you'll be happy to know I think we're done, unless your -- Mr. Collora wants to ask anything.

MR. COLLORA: I have three hours of questioning.

MR. HUNTINGTON: Hey, I'll stay as long as it takes, Mike.

MR. COLLORA: We're done.

MR. HUNTINGTON: We're done.

THE VIDEOGRAPHER: The time is 6:38. We are going off the record.

(At 6:39 P.M., the deposition proceedings concluded.)

____

HOWARD BRIAN PRESENT

COMMONWEALTH OF MASSACHUSETTS)
SUFFOLK)

I hereby certify that the witness in the foregoing deposition, HOWARD BRIAN PRESENT, was by me duly sworn to testify to the truth, the whole truth and nothing but the truth, in the within-entitled cause; that said deposition was taken at the time and place herein named; and that the deposition is a true record of the witness's testimony as reported by me, a duly certified shorthand reporter and a disinterested person, and was thereafter transcribed into typewriting by computer.

I further certify that I am not interested in the outcome of the said action, nor connected with nor related to any of the parties in said action, nor to their respective counsel.

IN WITNESS WHEREOF, I have hereunto set my hand this 24th day of February, 2016.

Reading and Signing was:

___ requested ___ waived _X_ not requested

[redacted]

JAMES A. SCALLY,, RMR, CRR, CSR,
NOTARY PUBLIC; COMMISSION EXPIRES APRIL 8, 2022

EXHIBIT 13

EXHIBIT
F2-29
10/18/13 CF

From: Howard Present <hpresent@f-squaredinvestments.com>
Sent: Tuesday, August 26, 2008 11:36 AM
To: David Morton <david.morton@mortonfin.com>
Subject: RE: NewFound Research
Attach: image004.png

EXHIBIT #16

EXHIBIT
48
JAS 12/22/15

Thanks. Call when reviewed and I will swing by and put ink to paper.

Howard Present

F-Squared Investments, Inc.
Thought Leadership. Cost Leadership.™

70 Walnut Street, Wellesley, MA 02481
hpresent@f-squaredinvestments.com
p: 781-237-3008; f: 781-239-8005; c: 617-610-5570

www.f-squaredinvestments.com; www.activeindexsolutions.com

From: David Morton [mailto:david.morton@mortonfin.com]
Sent: Tuesday, August 26, 2008 11:15 AM
To: hpresent@f-squaredinvestments.com
Subject: RE: NewFound Research

2003.. similar model.. tom, my guy is reviewin again..should have by 4

Learn more about our firm by visiting our website at www.mortonfin.com

MORTON FINANCIAL
asking questions, finding solutions
David J. Morton
Director, Morton Financial

62 Walnut St. 3rd Floor Wellesley, MA 02481
Tel: 781-263-1688 • Toll Free: 800-782-4451 • Fax: 781-431-1883
Wellesley • Vineyard Haven • Sherborn

From: Howard Present [mailto:hpresent@f-squaredinvestments.com]
Sent: Tuesday, August 26, 2008 10:22 AM
To: David Morton
Subject: NewFound Research

Jay,

Great update meeting with Corey this am. Just what I needed.

His new approach is thoughtful, and creates a lot more resolution, but need to confirm back-tested versus live periods. The original data/approach was based off of rolling 40-week periods. Therefore two quick questions:

1. How long has live money been managed against a version of this sector rotation model?
2. Was the original model similar to the rolling 40 week version, or something else?

HP

Howard Present

F-Squared Investments, Inc.
Thought Leadership. Cost Leadership.™

70 Walnut Street, Wellesley, MA 02481
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EXHIBIT 14

OS Received 03/16/2023

[redacted]

EXHIBIT 174
WIT: Hobbs
DATE: 1/12/16
JILL E. SHEPHERD, RPR, CSR

OS Received 03/16/2023

[redacted]

OS Received 03/16/2023

[redacted]

OS Received 03/16/2023

EXHIBIT 15

OS Received 03/16/2023

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

SECURITIES AND EXCHANGE COMMISSION, Plaintiff, v. NAVELLIER & ASSOCIATES, INC. and LOUIS NAVELLIER, Defendants.	Case No. 17-cv-11633-DJC

PLAINTIFF'S REPLY TO DEFENDANTS' OPPOSITION
TO PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT

The Commission should get summary judgment on the "live trading" allegations in Counts I and II and on Defendants' selective enforcement affirmative defense. On Counts I and II, Defendants cannot dispute their printed marketing statements; their lack of factual support for those statements; or the admissions, testimony, and documents that all establish that they knew they had no basis for those statements when they made them and (at least) seriously doubted were true. On selective enforcement, Defendants have not submitted evidence sufficient to raise even a question of fact about similarly situated parties, a lack of rational basis for treating them differently from other advisers, a reason to ignore the twenty other advisers who were charged, or any proof of malice by the Commission. Instead, Defendants try to confuse the facts on the Commission's claims with a time-honored gambit—introducing extraneous evidence and arguments not relevant to the Commission's motion for summary judgment.

Summary judgment is "the put up or shut up moment in litigation" and to get to a jury, the non-moving party must "come forward with some evidence showing a genuine dispute of material fact by affirmatively point[ing] to specific facts that demonstrate the existence of an authentic dispute." *Jakobiec v. Merrill Lynch Life Ins. Co.*, 711 F.3d 217, 226 (1st Cir. 2013) (internal quotations omitted); *Celotex Corp. v. Catrett*, 477 U.S. 317, 324 (1986) (once the moving party meets its burden, the burden shifts to the non-moving party to set forth specific facts showing a genuine, triable issue). Defendants have not done that.

While the summary judgment standard is "favorable to the non-moving party, [] it does not give [Defendants] a free pass to trial." *Gomez v. Stop & Shop Supermarket Co.*, 670 F.3d 395, 396-97 (1st Cir. 2012). Defendants' "conclusory allegations, improbable inferences, and unsupported speculation" (described below and in Commission's Reply to Defendants' Responses to Plaintiff's Statement of Undisputed Facts) should not be given any weight in determining whether they have demonstrated a genuine or material factual issue. *Jakobiec*, 711 F.3d at 223. Defendants strain to create the appearance of a dispute by introducing facts that are irrelevant to claims in this motion, cut-and-pasting together deposition answers from different pages of testimony, claiming that Mr. Navellier lied in every emailed statement he made, and mischaracterizing or ignoring their own documents. That's not establishing a genuine dispute of material fact. And it's not enough to defeat summary judgment.

I. Defendants Fail to Refute the Evidence Establishing Violations of Sections 206(1) and (2).

A. Defendants Cannot Dispute They Said What They Said

The Commission has re-printed verbatim Defendants' claims in the Vireo marketing materials of a live traded, not backtested, strategy back to 2001. [Statement of Undisputed Facts ("Facts") ¶43; P. Exs. 25-33.] In response, Defendants try to confuse the issue by focusing on the AlphaSector *index* (performance of a hypothetical basket of securities over time) instead of the investment strategy that Defendants said was traded with live assets back to 2001 and not backtested (actual money traded in real time, and not tested with an after-the-fact computer simulation). The Commission does not seek summary judgment on Defendants' statements about the index. And those index-related statements do not change the substance of what Defendants said about the strategy being traded with live assets. On those live-trading statements, Defendants cannot genuinely dispute what they said.

Defendants also sow confusion by pointing to other Vireo marketing materials that did not make the live trading claims. But Defendants' use of some marketing materials that did not make these misrepresentations does not cure Defendants' creation and use of marketing materials that did. And it doesn't create a dispute of fact about those misrepresentations either.

Finally, Defendants argue that there can be no violation of Advisers Act §206, because their misrepresentations were contained in "brochures" that were not advertisements. Even accepting Defendants' false premise, there is no legal basis to limit Section 206 claims only to advertisements. To the contrary, Section 206(1) covers the use of "any device, scheme, or artifice" and Section 206(2) covers the use of any "transaction, practice, or course of business." Whether a document is an "advertisement" is only relevant to the Commission's Fourth Claim (violation of Advisers Act Rule 206(4)-1(a)(5)), which is not a part of Commission's motion. Defendants can violate Section 206 with their "brochures" (and their website, their oral sales pitches, and their other marketing material), whether they are "advertisements" or not.[1]

B. Admissions and Other Undisputed Evidence Show Defendants Intended To, or Were Extremely Reckless in, Making Unsubstantiated Statements

Plaintiff and Defendants agree there is a high bar to finding scienter on summary judgment. But here Defendants have admitted that they did not know whether certain marketing statements they made were true or false. And undisputed evidence shows that, when they made those statements, they knew they lacked a factual basis for them. So Defendants intentionally made statements they

[1] Rule 206(4)-1(b) defines "advertisement" (for the purposes of that rule). An "advertisement shall include any … written communication addressed to more than one person … which offers … investment advisory service with regard to securities." It is not clear why Defendants' think their "brochures" fall outside this definition. The brochures are distributed to more than one person (Defendants discuss how they distributed these brochures to brokers and advisers) and they offered investment advisory services (clients signing up to have NAI invest their money according to the AlphaSector strategies.). But, as mentioned, the "advertisement" definition does not factor into Advisers Act Section 206.

EXHIBIT 16

OS Received 03/16/2023

EXHIBIT

>
>
>
> Navellier & Associates Inc. (B-03078) - Confidential Settlement Communication Pursuant to FRE 408
>
> Peter and Joe,
>
> As promised in our call this morning, please see below for further information concerning how the staff arrived at its revised settlement demand of $1.7 million to resolve the above-referenced matter. The staff could recommend negligence based charges against Navellier (the entity) only including the following violations of the Investment Advisers Act and rules thereunder: Section 206(2); Section 204(a) and Rule 204-2(a)(16) (Books and Records rule); Rule 206(4)-1(a)(5) (Advertising rule); and Rule 206(4)-7 (Compliance rule).
>
> With respect to the individual components of our recommended settlement demand, it includes approximately $1,085,285 in disgorgement, $130,436 in pre-judgment interest and a $500,000 civil penalty for a total of $1,715,721. The components of disgorgement include $414,160 in investment management fees ($360,935 disgorgement plus $53,225 prejudgment interest) and $801,561 ($724,350 disgorgement plus $77,211 in prejudgment interest) for the sale of Vireo.
>
> The revised settlement demand takes into account significant discounts relative to time period and product type. As discussed in the call, the investment management fees are comprised of a percentage of those fees Navellier received for Vireo AlphaSector products during a significantly reduced time period from August 10, 2011 (the beginning date of the agreed tolling period) until September 14, 2012 (the date upon which Mr. Kuyper's all employees email went out to Navellier staff demanding no further use of "unapproved" F-Squared marketing materials).
>
> The staff adjusted the investment management fees down by 34% based on Attorney Kornhauser's January 4, 2017 correspondence that Navellier prepared Vireo AlphaDEX marketing materials never contained any F-Squared historical performance for the 2001-07 time period. (Mr. Kornhauser supplied numbers indicating that that approximately 34% of revenues were derived from AlphaDEX products.) The staff further reduced the investment management fees by crediting Navellier's argument that the 2001-2008 track record was less important over time, especially as Navellier had developed a longer GIPS track record for its Vireo strategy. Consequently, investment management fees were

discounted for the time period August 10, 2011 to December 31, 2011 at a 50% rate, while those fees from January 1, 2012 to September 14, 2012 received a 75% rate reduction.
>
> For the sale of Vireo, the staff also applied significant discounts. The original $14 Million sale price was reduced by the tax paid on the sale ($3,025,000). The subtotal of $10,975,000 was then reduced further by 34% to $7,243,500 (based on Mr. Kornhauser's representations discussed above) to account for removal of the AlphaDEX products from the calculation. The staff then reduced the remainder by 90% to $724,350 to account for Navellier's position that the importance of the historical track record diminished even further by August 2013.
>
> Please note that the above terms reflect the staff's proposed recommendation for a settlement in this matter. All staff recommendations are subject to approval by both the Division of Enforcement and the Commission. No settlement is final unless and until it is approved by the Commission. Please let us know by Friday, April 28 if Navellier wishes to proceed on the above terms.
>
> Thank you,
>
> Bill
>
>
>
> William J. Donahue
> Senior Counsel
> Enforcement Division
> U.S. Securities & Exchange Commission
> Boston Regional Office
> 33 Arch Street, 24th Floor, Boston, MA 02110
> tel: (617) 573-8915 | email: donahuew@sec.gov<mailto:donahuew@sec.gov>
>
>
>
> Joseph C. Mauro
>
> Associate
>
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> Arent Fox LLP | Attorneys at Law
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> 1717 K Street, NW
>
> Washington, DC 20006-5344
> 202.857.6321 DIRECT | 202.857.6395 FAX
>
> <mailto:Joseph.Mauro@arentfox.com> joseph.mauro@arentfox.com | <http://www.arentfox.com>
www.arentfox.com
>
>
>
> From: donahuew sec.gov [mailto:sec.notification@zixmessagecenter.com]
> Sent: Monday, April 24, 2017 4:05 PM
> To: Mauro, Joseph C. <Joseph.Mauro@arentfox.com>
> Subject: SEC smail

EXHIBIT 17

[redacted]

[redacted]

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EXHIBIT 18

VOLUME: 1
PAGES: 1-256
EXHIBITS: 1-16

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

SECURITIES AND EXCHANGE COMMISSION

Plaintiff

Civil Action No.

17-cv-11633

V.

NAVELLIER & ASSOCIATES, INC., and

LOUIS NAVELLIER

Defendants

VIDEOTAPED DEPOSITION OF

SECURITIES AND EXCHANGE COMMISSION

by and through its designee

ROBERT B. BAKER, JD, CFA

Thursday, March 28, 2019, 9:35 a.m.

BROOKS & DERENSIS

111 Devonshire Street

Boston, Massachusetts

----- Sonya Lopes, RPR, CSR -----

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A. Specifically during that time period, do I remember? No.
Q. Okay. And was there any discussion about a ban -- lifetime ban against Navellier -- Louie Navellier or Navellier & Associates during that period of time?
MR. JONES: Do you mean without -- with counsel for Navellier?
Q. Well, you weren't talking to Mr. Navellier, were you?
MR. JONES: Well, I just meant as opposed to internally.
Q. Yeah. I'm talking about with representatives of Navellier -- Mr. Navellier and Navellier & Associates.
A. I'd love to have a beer with that man or something like that at some point in time, but I've never met with him one-on-one without his counsel present, no.
Q. Right. So -- all right. So there were no discussions during that time period -- April 24 to May 31 -- about a ban of Navellier & Associates or Mr. Navellier; correct?
A. I would -- I don't recall that -- that ever

coming up during that time period, no.
Q. Okay. And during that time period, you were -- the SEC was negotiating for a settlement with both Mr. Navellier and Navellier & Associates. Isn't that correct?
A. During the time period of April 24th to May 31st?
Q. Right.
A. The topic of discussion during that period dealt with a settlement that the staff could recommend to the Commission with only Navellier & Associates.
Q. Right. Meaning no claims or charges being brought against Mr. Navellier personally. Isn't that right?
A. He wasn't even part of the discussion at that point in time in terms of, you know, the staff bringing a case against him.
I think the parties were on the same page that if we could reach a negotiated resolution dealing with the matter that was similar to Virtus from our respects, we'd be done with this case.
Q. Well, so "done with the case" meaning there wouldn't be any claims brought against Mr. Navellier

individually; correct?
A. I'm pretty sure we were all on the same page on that. That's certainly my recollection of the communications we had.
Q. When you say "we all," you're talking about SEC and counsel for Navellier?
A. Right. In other words, we had Wellsed (verbatim) both Navellier and -- Navellier & Associates and Mr. Navellier. And the ensuing settlement discussions that occurred all the way through were, you know, only with Navellier & Associates being resolved and no case being brought against Mr. Navellier.
Q. Right. In fact, even after the proposed order, the negotiations were still with resolving the -- whatever the terms were. But it wouldn't be bringing any claims against Mr. Navellier; correct?
A. I don't think that's entirely accurate. So at a certain point in time, it becomes clear that this censure issue was one that mattered a lot to the firm and that they weren't willing to settle with a censure being part of it -- that was communicated to us -- and that they were going to put together an offer to present to the Commission

-- that they would have present to the Commission, which they're allowed to do under the rules, that would not include a censure and that our communication back to the firm at that point in time was that we would take in the offer when we got it, decide what to do but that if it didn't have a censure that we anticipated that we would be making a recommendation to the Commission for a litigated action that would include both Navellier and Mr. Navellier, the two parties that were Wellsed prior in the year.
Q. But if Navellier & Associates accepted censure, there wouldn't be any charges against Mr. Navellier personally; correct?
A. That was the whole idea all along that -- in the settlement discussions that were serious during this period of time of April and May of 2017 that if the parties could reach a resolution as to Navellier & Associates, the case would end. There would be no further investigation.
Q. Right.
A. There wouldn't be any further charges against Mr. Navellier.
Q. So the carrot was -- or, I mean, the stick

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was that if Navellier & Associates didn't accept the censure, then you would pursue litigation against Mr. Navellier --
MR. JONES: Objection as to --
Q. -- correct?
MR. JONES: -- "carrot" and "stick" as terms that don't really mean anything.
A. So you put it a little differently --
MR. KORNHAUSER: They do to me.
A. -- than I do. The way that I think about it and the way that I believe it was communicated to counsel was that there would be litigation. And when there's litigation, we bring an action against the parties that we should be bringing an action against. And we draft a complaint according to that. So if we couldn't reach a settled resolution, there would be litigation.
And when you're litigating against an investment advisory firm like this, if a person could be charged as part of it, he or she typically is.
Q. Well, other than Navellier & Associates and F-Squared, no other individuals -- and all the other people that were investigated and that the SEC

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settled with, no individuals were charged. Isn't that right?
A. Two parties took us to litigation in all of this. One was Navellier & Associates and Mr. Navellier -- so I guess there's three parties, but that's one that I consider one party -- and the other one was Howard Present.
Q. Right.
A. Everybody else settled.
Q. Right. Okay. And -- all right. Let's go back to Exhibit 3 for a minute.
MR. JONES: Sam, I --
MR. KORNHAUSER: You want to take a break?
THE WITNESS: I don't care. Whatever you want to do.
MR. JONES: It's 11 --
MR. KORNHAUSER: Why don't we take a five-minute, ten-minute --
VIDEOGRAPHER: The time on the monitor is approximately 11:41. We're going off the video record.
(A break was taken)
VIDEOGRAPHER: The time on the monitor

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is approximately 11:49 a.m. This is the beginning of Media Unit 2 of the video-recorded deposition, and we are back on the record. Counsel, you may proceed.
Q. Okay. So going back to Exhibit 2. If you'd take a look at that, that e-mail chain. I'm looking at the second page. There's an e-mail from William Donahue to Joseph Mauro -- and you're copied on it -- dated April 28, 2017.
So Mr. Donahue is saying to Mr. Mauro, counsel for defendants, "Thank you for the reply. We look forward to hearing from you next week. I see that the e-mail contains only an Arent Fox document control number, not one from prior productions." That's a reference to the Kuyper September e-mail; is that right?
A. September 2012, was it?
Q. Yeah. September 14th.
A. 2012?
Q. Yeah, the e-mail saying -- directing Navellier employees not to hand out any non-Navellier marketing material.
A. Yes, it is.
Q. Okay. So -- then he says -- Mr. Donahue

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says "We wanted to discuss further" -- well, strike that.
Then on May 5th of 2017 -- that starts on the first page of Exhibit 2, goes to the second page -- this is Mr. Unger writing to Mr. Donahue, and you're copied.
Mr. Unger says "We think that the staff's approach of recommending negligence charges against the entities is something that our clients could live with."
So that's what you were talking about earlier where these negotiations between -- starting in April 24th were trying to resolve the case with only claims against Navellier & Associates; correct?
A. Would have included that -- prior dates as well, but yes.
Q. Okay. So it reads "We think that the staff's approach of recommending negligence charges against the entity is something that our clients could live with, as is a penalty in the range you proposed. Disgorgement, however, for the reasons articulated in our Wells submission is unacceptable."
So this first page of Exhibit 2, that's

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REPORTER'S CERTIFICATE

I, SONYA LOPES, Registered Professional Reporter and Notary Public in and for the Commonwealth of Massachusetts, certify;

That the foregoing proceedings were taken before me at the time and place therein set forth, at which time the witness was properly identified and put under oath by me;

That the testimony of the witness, the questions propounded, and all objections and statements made at the time of the examination were recorded stenographically by me and were thereafter transcribed;

That the foregoing is a true and correct transcript of my shorthand notes so taken.

I further certify that I am not a relative or employee of any attorney of the parties, nor financially interested in the action.

I declare under penalty of perjury that the foregoing is true and correct.

Dated this 11th day of April, 2019.

Sonya Lopes My Commission Expires:
Notary Public March 5, 2020

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WITNESS: Robert B. Baker, JD, CFA [Volume I]
DATE: March 28, 2019
CASE: SECURITIES AND EXCHANGE COMMISSION v. NAVELLIER & ASSOCIATES, INC., and LOUIS NAVELLIER

DISTRIBUTION TO COUNSEL The original signature page/errata sheet was sent to Marc Jones, Esq., to obtain signature from the deponent. When signed, please send original to Samuel Kornhauser, Esq., who will supply a copy of the signed errata sheet to other counsel present at the deposition.

WITNESS INSTRUCTIONS After reading the transcript of your deposition, please note any change or correction and the reason for it on the errata sheet. DO NOT make any notations on the transcript itself. Use additional sheets if necessary.

SIGN AND DATE THE ERRATA SHEET under the pains and penalties of perjury and return it, along with the transcript, to your counsel.

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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

SECURITIES AND EXCHANGE COMMISSION
Plaintiff Civil Action No. 17-cv-11633
v.
NAVELLIER & ASSOCIATES, INC., and LOUIS NAVELLIER
Defendants

I, ROBERT B. BAKER, JD, CFA, do hereby certify under the pains and penalties of perjury, that the foregoing testimony is true and accurate, to the best of my knowledge and belief, with the addition of the following changes/corrections:

Page/ Line/ Change/Correction
____/____/____________________
/ /
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____/____/____________________
/ /

WITNESS MY HAND, this day of , 2019.

ROBERT B. BAKER, JD, CFA

cc: Samuel Kornhauser, Esq.

EXHIBIT 19

-----Original Message-----
From: Unger, Peter [mailto:Peter.Unger@arentfox.com]
Sent: Tuesday, May 30, 2017 11:32 AM
To: Donahue, William
Cc: Baker, Robert; Jones, Marc; Kelly, Anthony S.; Carter, Hunter T.; Mauro, Joseph C.
Subject: Re: Navellier

After much discussion, I think that we can make this work if we can get the penalty down to $300 k. Regards.

EXHIBIT 20

<p>JavaScript is needed for this application. Please turn on JavaScript for your Internet browser or contact your administrator.</p>
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joseph.mauro@arentfox.com

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Last Sign In: May 12, 2017 12:47 PM

Received:May 30, 2017 4:01 PM
Expires:Aug 28, 2017 4:01 PM
From:donahuew@sec.gov
To: peter.unger@arentfox.com
Cc:joseph.mauro@arentfox.com, bakerr@sec.gov, hunter.carter@arentfox.com, kellva@sec.gov, jonesmarc@sec.gov
Subject:RE: email Navellier

Peter,

EXHIBIT

Thank you for your email. We can recommend that the Commission institute settled cease-and-desist and administrative proceedings pursuant to Sections 203(e) and 203(k) of the Advisers Act and order that:

1) Navellier willfully violated and shall cease and desist from committing or causing any violations and any future violations of Sections 204(a), 206(2), and 206(4) of the Advisers Act and Rules 204-2(a)(16), 206(4)-1(a)(5), and 206(4)-7 thereunder;

2) Navellier is censured; and

3) Navellier shall pay $414,160 disgorgement ($360,935 disgorgement and $53,225 prejudgment interest) and a $300,000 penalty.

We'll try and get you drafts of the order and offer later this week.

Separately, the trial team in the Howard Present case (Rachel Hershfang, Frank Huntington, and Jennifer Cardello) would like to meet with Peter Nicolas and possibly John Ranft sometime this summer in advance of the trial starting on September 11. Mr. Kornhauser represented both of them during the investigation when we took their testimony. Should the trial team reach out to you to request a meeting(s)? I believe Mr. Nicolas lives in the Boston area and Mr. Ranft lives in the Philadelphia area.

Regards.

Bill

William J. Donahue
Senior Counsel
Enforcement Division
U.S. Securities & Exchange Commission
Boston Regional Office
33 Arch Street, 24th Floor, Boston, MA 02110
... donahuew@sec.gov

EXHIBIT 21

OS Received 03/16/2023

Case 1:17-cv-11633-DJC Document 98-1 Filed 01/11/19 Page 5 of 37

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3/2/2018 12:43 PM

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

INVESTMENT ADVISERS ACT OF 1940
Release No.

ADMINISTRATIVE PROCEEDING
File No.

In the Matter of NAVELLIER & ASSOCIATES, INC., Respondent.	ORDER INSTITUTING ADMINISTRATIVE AND CEASE-AND-DESIST PROCEEDINGS PURSUANT TO SECTIONS 203(e) AND 203(k) OF THE INVESTMENT ADVISERS ACT OF 1940, MAKING FINDINGS, AND IMPOSING REMEDIAL SANCTIONS AND A CEASE-AND-DESIST ORDER

I.

The Securities and Exchange Commission ("Commission") deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Sections 203(e) and 203(k) of the Investment Advisers Act of 1940 ("Advisers Act") against Navellier & Associates, Inc. ("Respondent" or "Navellier").

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the "Offer") which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission's jurisdiction over Respondent and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Sections 203(e) and 203(k) of the Investment Advisers Act of 1940, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order ("Order"), as set forth below.

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III.

On the basis of this Order and Respondent's Offer, the Commission finds[1] that:

Summary

1. This matter arises from misstatements made by registered investment adviser Navellier to certain of its advisory clients concerning F-Squared Investments, Inc.'s ("F-Squared") materially inflated, and hypothetical and back-tested, performance track record for its AlphaSector strategy.

2. AlphaSector was a sector rotation strategy based on an algorithm that yielded a signal indicating whether to buy or sell nine industry exchange-traded funds ("ETFs") that together made up the industries in the S&P 500 Index. Between May 2010 and August 2013, Navellier offered the AlphaSector strategy to its clients through its wholly owned Vireo brand.

3. From May 2010 to August 2012, in reliance on F-Squared's false statements, Navellier disseminated AlphaSector advertisements falsely stating: (a) assets had been invested in the AlphaSector strategy from April 2001 to September 2008; and (b) the track record had significantly outperformed the S&P 500 Index from April 2001 to September 2008. In fact, no F-Squared or other client assets had tracked the strategy from April 2001 through September 2008. In addition, F-Squared miscalculated the historical performance of AlphaSector from April 2001 to September 2008 by incorrectly implementing signals in advance of when such signals actually could have occurred. Because of this inaccurate compilation of historical data by F-Squared, Navellier advertised the AlphaSector strategy, both through its own Vireo materials and through use of F-Squared's materials, by using hypothetical and back-tested historical performance that was inflated substantially over what performance would have been if F-Squared had applied the signals accurately. As a result, Navellier violated Sections 206(2) and 206(4) of the Advisers Act and Rule 206(4)-1(a)(5) thereunder by publishing, circulating, and distributing advertisements that contained untrue statements of material fact.

4. Navellier also failed to adopt and implement written compliance policies and procedures reasonably designed to prevent violations of the Advisers Act and the rules thereunder, as required by Section 206(4) of the Advisers Act and Rule 206(4)-7. Specifically, Navellier failed to adopt and implement policies and procedures regarding: (a) the accuracy of performance information contained in the advertisements that it directly or indirectly published, circulated, or distributed where the performance information came from third-party sources and (b) the retention of books and records necessary to support the basis for performance information in advertisements directly or indirectly published, circulated, or distributed by Ameriprise.

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

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5. Navellier likewise failed to make and keep true, accurate and current records or documents necessary to form the basis for or demonstrate the calculation of the performance or rate of returns that it published, circulated, and distributed, as required by Section 204 of the Advisers Act and Rule 204-2(a)(16) thereunder.

Respondent

6. **Navellier & Associates, Inc.** (SEC File No. 801-30582) is an investment adviser registered with the Commission since October 1987 and is headquartered in Reno, Nevada. As of March 2017, Navellier had regulatory assets under management of more than $1 billion.[2]

Other Relevant Entity

7. **F-Squared Investments, Inc.** ("F-Squared") (SEC File No. 801-69937) was an investment adviser that was registered with the Commission from March 2009 until January 2016, and was headquartered in Wellesley, Massachusetts. In October 2008, F-Squared launched its first AlphaSector index. F-Squared sub-licensed its approximately 75 AlphaSector indexes to unaffiliated third parties who managed assets pursuant to these indexes. On December 22, 2014, the Commission instituted a settled fraud action against F-Squared in which F Squared admitted, among other things, to making the materially false claims that (a) the signals that formed the basis of the AlphaSector index returns had been used to manage client assets from April 2001 to September 2008; and (b) the signals resulted in a track record that significantly outperformed the S&P 500 Index from April 2001 to September 2008. *See In the Matter of F-Squared Investments, Inc.*, Admin. Proceeding No. 3-16325 (Dec. 22, 2014).

Facts

8. In approximately September 2009, F-Squared introduced Navellier to its AlphaSector strategies. Navellier began considering whether it would enter into a model manager agreement with F-Squared whereby Navellier would establish an investment product that followed F-Squared's AlphaSector sector strategy. F-Squared marketed AlphaSector to Navellier as an ETF sector rotation strategy that was based on an algorithm that yields a "signal" indicating whether to buy or sell nine industry ETFs.[3] If the algorithm produced buy signals for

---

[2] Regulatory assets under management include the securities portfolios for which Navellier provides continuous and regular supervisory or management services.

[3] F-Squared created several AlphaSector strategies and sub-licensed approximately 75 AlphaSector indexes. The AlphaSector Premium index that is the subject of this matter is based on investments in U.S. equity ETFs. As with all indexes, the performance of the AlphaSector Premium Index is inherently hypothetical in the sense that the index does not purport to reflect the performance of any particular client or account. However, the AlphaSector Premium Index was advertised as being based on a strategy that had been in place since 2001 and therefore the performance of this index was advertised as "not

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three or fewer sector ETFs, the AlphaSector strategy provided for some or all of the assets to be invested in cash equivalents.

9. F-Squared described the strategy falsely to Navellier by, among other things, representing that: (a) the AlphaSector strategy had been used to manage client assets from April 2001 to September 2008, often calling it a "live" track record; and (b) the track record had significantly outperformed the S&P 500 Index from April 2001 to September 2008. In reality, no assets tracked the strategy until 2008 and the back-tested track record was substantially overstated. F-Squared's AlphaSector sales and marketing materials, which it shared with Navellier, claimed falsely that clients actually achieved these performance returns for the April 2001 to September 2008 time period. At the time it conducted its due diligence of AlphaSector, Navellier acknowledged that it could not validate the purported historical performance of the AlphaSector track record for the years 2001 to 2008.

10. In October 2009, Navellier entered into a model manager agreement allowing the firm to invest client assets pursuant to the AlphaSector strategies. Navellier's clients included clients of third party investment managers who gave Navellier limited trading authority to implement the AlphaSector strategies. In March 2011, after participating in a discussion with F-Squared's Chief Executive Officer and an outside analyst who was reviewing the AlphaSector strategy, one Navellier executive suspected that F-Squared's AlphaSector performance results from April 2001 to September 2008 were back-tested, as opposed to performance resulting from the "live" trading of actual assets. Navellier took insufficient steps to determine whether F-Squared's buy or sell signals were generated or used in any trading decisions during the April 2001 through September 2008 period. As a result, Navellier knew or should have known that it did not have a reasonable basis to believe that AlphaSector's advertising claims were accurate prior to recommending the AlphaSector strategy to clients.

<u>Navellier's Advertisements Contained Misstatements</u>

11. From May 2010 through August 2011, Navellier, through its Virco brand, advertised the strategy by incorporating portions of F-Squared's advertisements, including claims concerning the live nature of the track record and the significant outperformance claim, into its own advertisements. Navellier then disseminated these advertisements to its clients and prospective clients without having a reasonable basis to conclude that F-Squared's exceptional performance claims between 2001 and 2008 were the result of live trading. For example, from May 2010 through August 2011, Navellier, in advertising its own advisory services, disseminated AlphaSector performance advertisements for its own separately managed account strategies that failed to disclose the AlphaSector track record for the period April 2001 to September 2008 was hypothetical and back-tested. In fact, these Navellier advertisements included descriptions that the historical performance of AlphaSector was "not back-tested." Navellier's AlphaSector advertisements for this period also substantially overstated the

backtested" when in fact the performance *was* back-tested.

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performance of the back-tested track record for the strategy during this period based on the false information provided by F-Squared. Navellier advised clients to invest in the AlphaSector strategies based on their historical performance.

12. Navellier's Vireo advertising disclosures changed over time. By September 2011, Navellier removed references to the historical performance being "not back-tested" from its disclosures. Navellier's Vireo advertisements now identified the historical returns as "hypothetical" and noted "hypothetical back-tested performance has many inherent limitations." By June 2012, Navellier had removed from its Vireo advertising all references to the historical performance for the 2001-2008 time period.

13. Although Navellier's disclosures for its own Vireo advertisements changed over time, until September 2012, Navellier sales staff continued to use F-Squared produced marketing materials when presenting to clients and prospective clients. Many of these F-Squared materials falsely claimed that the AlphaSector strategy was "not backtested," and included the overstated historical performance. On September 14, 2012, Navellier's President issued a directive to all Navellier employees to stop using F-Squared marketing materials.

14. In September of 2013, Navellier sold its Vireo business line to F-Squared. Prior to the sale, Navellier did not disclose to its Vireo AlphaSector clients that its prior marketing materials contained the false track record and inflated performance.

Navellier Failed to Adopt and Implement Adequate Policies and Procedures

15. Navellier was required to adopt and implement written policies and procedures reasonably designed to prevent violations of the Advisers Act and its rules. As an adviser that often relied on subadviser or other third-party-produced performance and marketing materials, both in hiring or retaining subadvisers and in marketing a subadviser to its own clients or prospective clients, Navellier should have adopted and implemented policies and procedures reasonably designed to address the accuracy of such materials. However, Navellier had no written policies and procedures for evaluating and monitoring the accuracy of advertisements or performance information where the information came from third-party sources, such as F-Squared, and was then directly or indirectly published, circulated, or distributed by Navellier to other persons. Navellier also failed to adopt and implement reasonably designed written policies and procedures regarding the retention of books and records necessary to support the basis for performance information in advertisements directly or indirectly circulated or distributed by Navellier.

Navellier Failed to Maintain Adequate Books and Records

16. Navellier was required to make and keep true, accurate and current records or documents necessary to form the basis for or demonstrate the calculation of the performance or rate of return that it published, circulated or distributed to ten or more persons. In marketing its own advisory services, Navellier published, circulated and distributed the 2001 to 2008 historical

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performance of the AlphaSector strategy in client presentations and marketing materials and other communications to numerous clients, investors, and potential investors. However, Navellier never made or kept records or documents sufficient to form the basis for or demonstrate the calculation of the historical performance or rate of return of the AlphaSector strategy.

Violations

17. As a result of the conduct described above, Respondent willfully[4] violated Section 206(2) of the Advisers Act, which prohibits any investment adviser from engaging in any transaction, practice, or course of business, which operates as a fraud or deceit upon any client or prospective client. A violation of Section 206(2) may rest on a finding of simple negligence. *SEC v. Steadman*, 967 F.2d 636, 643 n.5 (D.C. Cir. 1992) (citing *SEC v. Capital Gains Research Bureau, Inc.*, 375 U.S. 180, 195 (1963)). Proof of scienter is not required to establish a violation of Section 206(2) of the Advisers Act. *Id.*

18. As a result of the conduct described above, Respondent willfully violated Section 206(4) of the Advisers Act and Rule 206(4)-1(a)(5) thereunder, which makes it a fraudulent, deceptive, or manipulative act, practice, or course of business within the meaning of Section 206(4) of the Advisers Act to, among other things, directly or indirectly publish, circulate, or distribute an advertisement which contains any untrue statement of material fact, or which is otherwise false or misleading. A violation of Section 206(4) and the rules thereunder does not require scienter. *Steadman*, 967 F.2d at 647.

19. As a result of the conduct described above, Respondent willfully violated Section 206(4) of the Advisers Act and Rule 206(4)-7 thereunder by failing to adopt and implement written policies and procedures reasonably designed to prevent violations of the Advisers Act and its rules.

20. As a result of the conduct described above, Respondent willfully violated Section 204(a) of the Advisers Act and Rule 204-2(a)(16) thereunder. Section 204(a) of the Advisers Act requires investment advisers to make and keep certain records as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors. Rule 204-2(a)(16) under the Advisers Act requires investment advisers registered or required to be registered to make and keep true, accurate and current various books and records relating to their investment advisory business, including all accounts, books, internal working papers, and any other records or documents that are necessary to form the basis for or demonstrate the

[4] A willful violation of the securities laws means merely "'that the person charged with the duty knows what he is doing.'" *Wonsover v. SEC*, 205 F.3d 408, 414 (D.C. Cir. 2000) (*quoting Hughes v. SEC*, 174 F.2d 969, 977 (D.C. Cir. 1949)). There is no requirement that the actor "also be aware that he is violating one of the Rules or Acts.'" *Id.* (*quoting Gearhart & Otis, Inc. v. SEC*, 348 F.2d 798, 803 (D.C. Cir. 1965)).

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calculation of the performance or rate of return of any or all managed accounts or securities recommendations in any notice, circular, advertisement, newspaper article, investment letter, bulletin or other communication that the investment adviser circulates or distributes, directly or indirectly, to 10 or more persons.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondent's Offer.

Accordingly, pursuant to Sections 203(c) and 203(k) of the Advisers Act, it is hereby ORDERED that:

A. Navellier shall cease and desist from committing or causing any violations and any future violations of Sections 204(a), 206(2), and 206(4) of the Advisers Act and Rules 204-2(a)(16), 206(4)-1(a)(5), and 206(4)-7 thereunder.

B. Navellier is censured.

C. Navellier shall, within ten (10) days of the entry of this Order, pay disgorgement of $360,935, prejudgment interest of $53,225, and a civil money penalty in the amount of $300,000 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). If timely payment is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600 and 31 U.S.C. §3717. Payment must be made in one of the following ways:

(1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;

(2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at http://www.sec.gov/about/offices/ofm.htm; or

(3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Navellier as the Respondent in these proceedings, and the file number of these proceedings; a copy of the

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3/2/2018 12:43 PM

cover letter and check or money order must be sent to Robert B. Baker, Assistant Director, Asset Management Unit, Securities and Exchange Commission, 33 Arch Street, 24th Floor, Boston, MA 02110-1424.

D. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, it shall not argue that it is entitled to, nor shall it benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that it shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

By the Commission.

Brent J. Fields
Secretary

EXHIBIT 22

OS Received 03/16/2023

[redacted]

The above information is to be held STRICTLY CONFIDENTIAL. It is ONLY to be used to execute transactions in approved AlphaSector Portfolios. The above information is NOT to be made available to the marketplace without prior written approval from F-Squared Investments.

[redacted]

The above information is to be held STRICTLY CONFIDENTIAL. It is ONLY to be used to execute transactions in approved AlphaSector Portfolios. The above information is NOT to be made available to the marketplace without prior written approval from F-Squared Investments.

From: F-Squared Signals <F-SquaredSignals@f2inv.com>
Sent: Friday, September 27, 2013 9:02 PM
To: 'Arjen Kuyper' <arjenk@navellier.com>; 'Scott H' <scotth@navellier.com>
Cc: Deb Deskavich <DDeskavich@f2inv.com>; Rick Tomney <RTomney@f2inv.com>; Phil Murray <pmurray@f2inv.com>; Valerie Villegas-Hoag <vvillegas-hoag@f2inv.com>; F-Squared Signals <F-SquaredSignals@f2inv.com>; Kyle Parker <kparker@f2inv.com>
Subject: F-Squared Investment Updates - September 27, 2013
Attach: AlphaSector Allocator Premium Index 09272013.xls; AlphaSector AlphaDex Allocator Premium Index 09272013.xls; AlphaSector INFInity Premium Index 09272013.xls

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AlphaSector Premium : No Changes
AlphaSector International Premium : No Changes
AlphaSector Global Premium : No Changes
AlphaSector Allocator Premium : MBB ON, SHV Decrease
AlphaSector INFInity Premium : MBB ON, SHV Decrease
AlphaSector Allocator XFI Premium : No Changes

AlphaSector AlphaDEX Premium : No Changes
AlphaSector AlphaDEX International Premium : No Changes
AlphaSector AlphaDEX Global Premium : No Changes
AlphaSector AlphaDEX Allocator XFI Premium : No Changes
AlphaSector AlphaDEX Allocator Premium : MBB ON, SHV Decrease

Please let us know if you have any questions.

The above information is to be held STRICTLY CONFIDENTIAL. It is ONLY to be used to execute transactions in approved AlphaSector Portfolios. The above information is NOT to be made available to the marketplace without prior written approval from F-Squared Investments.

Phil Murray
pmurray@f2inv.com
(857) 404-0853

Kyle Parker
kparker@f2inv.com
(857) 404-0015

F-Squared Investments
80 William Street, Suite 400
Wellesley, MA 02481
P: (857) 404-0840
F: (857) 404-0920

EXHIBIT 23

OS Received 03/16/2023

F-SQUARED INSTITUTIONAL ADVISORS, LLC
Model Manager Agreement

THIS MODEL MANAGER AGREEMENT ("Agreement") is made and entered into as of this _____ day of ______________________, 2012, by and between Navellier Associates, Inc. ("Adviser") and F-Squared Institutional Advisors, LLC ("Model Manager").

WHEREAS, Adviser or its agent is an investment adviser registered with either (i) the Securities and Exchange Commission ("SEC") pursuant to the Investment Advisers Act of 1940, as amended ("Advisers Act") and the rules and regulations there under or (ii) the appropriate state securities department in which its principal place of business is located, and has filed the appropriate notices in all states where such filings are required.

WHEREAS, Adviser or its agent is in the business of providing investment advisory and/or asset allocation services pursuant to a program ("Program") available to individuals and entities that establish a brokerage account to participate in the Program (each a "Program Account", and collectively, "Program Accounts") with Adviser or its agents.

WHEREAS, individuals and/or various types of corporate or other legal entities (each a "Client," and collectively, "Clients") retain Adviser or its agents to render investment management services to them through the Program with respect to assets held in Program Accounts.

WHEREAS, the Model Manager is registered with the SEC as an investment adviser under the Advisers Act and has filed the appropriate notices in all states where such filings are required.

WHEREAS, the Model Manager provides investment advice and analysis with respect to the creation and maintenance of one or more model portfolios (each a "Model Portfolio").

WHEREAS, Adviser or its agent desires to retain the Model Manager to create and supervise one or more Model Portfolios developed by the Model Manager for the Program, and the Model Manager desires to furnish such services in the manner and on the terms and conditions set forth in this Agreement.

WHEREAS, Adviser or its agent desires to use certain intellectual property rights of Model Manager or its affiliates related to the Indexes as set forth on Exhibit A attached hereto in connection with the creating and marketing of certain investment products, and Model Manager desires to grant Adviser or its agents a limited license to use such intellectual property rights in the manner and on the terms and conditions set forth in this Agreement.

NOW THEREFORE, in consideration of the mutual promises and agreements contained herein, Adviser or its agents and the Model Manager agree as follows:

1. MODEL ALLOCATION SERVICES.

(a) Model Portfolio Investment Objective. The Model Manager will develop one or more Model Portfolios pursuant to investment objectives as set forth on **Exhibit A** attached hereto and incorporated into this Agreement. Additional Model Portfolios may be added to this Agreement by addendum to **Exhibit A** as may be agreed to by the parties hereto. Such investment objectives for each of the Model Portfolios will correspond to the Model Manager's investment strategies and investment styles. Model Manager agrees to maintain its Model Portfolios in accordance with the procedures to be provided to the Model Manager by Adviser or its agents, as well as in the manner described herein. Accordingly, among other things, the Model Manager will select securities and percentage allocations in accordance with its designated investment strategy as described further below and in **Exhibit A** hereto.

(b) Creation of Model Portfolio. The Model Manager will develop each Model Portfolio, pursuant to the investment objective for such Model Portfolio and consisting of securities included in the Adviser's or its agents' Program (the "Tradable Securities"). Model Manager will determine the appropriate universe of Tradable Securities. The Model Manager will deliver to Adviser or its agents the Model Portfolio containing such securities as the Model Manager determines for inclusion in the Model Portfolio, as well as investment instructions relating to the Model Portfolio. The Model Manager will select securities for its Model Portfolio in accordance with procedures adopted by the Model Manager for avoiding conflicts of interest. The Model Manager acknowledges that Adviser or its agents may add, remove and/or place limitations on the securities considered to be Tradable Securities without prior notice to the Model Manager and that such changes may affect each Model Portfolio.

(c) Rebalancing of Model Portfolios. The Model Manager will rebalance and alter the composition of securities in each of its Model Portfolios, as necessary, and in accordance with the Model Portfolios' investment objective but subject to the restrictions imposed by clauses (a) and (b), above. The Model Manager will provide notice to Adviser or its agents of such rebalancing or alteration to the Model Portfolio.

(d) Use of Model Portfolios. Adviser or its agents may use each of the Model Portfolios pursuant to this Agreement exclusively as part of the Adviser's or its agents' Program.

(e) Proxy Voting. Adviser or its agents will vote all proxies for securities held in the Program, except on behalf of Clients who have retained the right to vote proxies themselves. Model Manager has no voting power with respect to any security held in the Program or otherwise held by any Client of Adviser or its agents.

(f) Exchange Act Compliance. The Model Manager has no voting or dispositive power with respect to any security or other asset included in the Program or managed in accordance with the Model Portfolios, and no obligation or responsibility to take any action with respect to any security or other asset included in the Program or managed in accordance with the Model Portfolios. Model Manager agrees to cooperate with Adviser or its agents in effecting the coordination of such necessary and appropriate Form 13F, Schedule 13D and/or Schedule 13G reports and filings as required under the Securities Exchange Act of 1934, as amended ("Exchange Act") with respect to securities held in Program Accounts purchased based on the Model Portfolios. Adviser acknowledges and agrees that it or its agents shall be responsible for filing all reports required under the Exchange Act.

(g) Availability to Clients. Pursuant to Rule 3a-4 under the Investment Company Act of 1940, as amended (the "1940 Act"), personnel of the Model Manager shall be reasonably available for consultation to Clients whose Program Accounts incorporate the Model Manager's Model Portfolios.

2. ACCOUNT TRANSACTIONS.

In connection with purchases or sales of securities for any Program Account, neither the Model Manager, nor any of its partners, members, managers, directors, officers, employees or affiliates will act as a principal or as agent. Adviser or its agents will arrange order placement for the purchase and sale of Model Portfolio securities for the Program Accounts through the Adviser or its agents' system, and other broker-dealers when necessary, with the agreement and approval of Adviser or its agents. The Model Manager will have no responsibility for executing transactions, selecting broker- dealers or achieving best execution with respect to any Program Accounts or any securities managed in accordance with the Model Portfolios.

3. GRANT OF LICENSE

AlphaSector Index Performance. During the term of this Agreement and subject to the terms and conditions set forth herein, Model Manager grants to Adviser or its agents a nonexclusive, non-transferable, revocable license to use the AlphaSector Index Performance (as defined below) in connection with the offer, sale, distribution, marketing and promotion of any fund or investment product managed by Adviser or its agents whose investment objective is to track the price and yield performance of the AlphaSector Index. The term "AlphaSector Index" means one or more of the AlphaSector Rotation Indexes owned or sponsored by Active Index Solutions, LLC, and as specified in Exhibit A. The term

"AlphaSector Index Performance" means the performance of the AlphaSector Index as reported by NASDAQ OMX or other recognized index calculation agent as specified by Active Index Solutions, LLC.

Use of Name. During the term of this Agreement and subject to the terms and conditions set forth herein, Model Manager grants to Adviser or its agents a nonexclusive, non-transferable, revocable license to use the name and mark "AlphaSector" and refer to the AlphaSector Index in connection with the offer, sale, distribution, marketing and promotion of, and as part of the name of, any fund or investment product managed by Adviser or its agents whose investment objective is to track the price and yield performance of the AlphaSector Index.

Intellectual Property Rights. As between the parties, Model Manager and its affiliates reserve all right, title and interest in and to the AlphaSector Index Performance and the name and mark "AlphaSector" (collectively with the AlphaSector Index Performance, the "Intellectual Property"), and all intellectual property rights associated therewith. The Intellectual Property is licensed, not sold, to Adviser or its agents. This Section 3 sets forth the entirety of Adviser or its agents' right to use the Intellectual Property. All rights in and to the Intellectual Property not expressly granted to Adviser or its agents herein are reserved to Model Manager and its affiliates. Adviser or its agents will protect the goodwill and reputation of the Model Manager in connection with its marketing, promotion, and distribution of the Program and any other investment products whose investment objective is to track the price and yield performance of the AlphaSector Index.

Marks and Copyright Notices. All materials, including advertising, sales promotion, or demonstration materials which refer to the Intellectual Property shall expressly state that Active Index Solutions, LLC is the owner of such Intellectual Property in language consistent with and substantially similar to the following example:

> **"Active Index Solutions, LLC is the source and owner of the trademarks, service marks and copyrights related to the AlphaSector Index. AlphaSector is a trademark of Active Index Solutions, LLC."**

Adviser or its agents agrees to use the service mark symbol ("SM") or other appropriate symbol as Model Manager may designate by written notice from time to time, in superscript whenever "AlphaSector" is first mentioned in the above-referenced materials or in any other manner. Adviser or its agents shall also indicate that Active Index Solutions, LLC is the owner of the copyrights related to the AlphaSector index and is the source of the AlphaSector Index Performance.

Pre-approval of Marketing Materials. Adviser or its agents shall submit to Model Manager for its review and approval any materials, including advertising, sales promotion, or demonstration materials, which refer to the Intellectual Property. Model Manager's approval shall not be unreasonably withheld or delayed. Model Manager shall notify Adviser or its agents within five (5) business days of its approval or disapproval of such materials.

Marketing Materials Used in Compliant Manner. Adviser or its agents agrees that, in the event it presents information related to the Intellectual Property in any marketing materials, it will present such information in a manner that is in compliance with the Advisers Act and regulations there under, and any other applicable law and regulation, including presenting information in a manner that does not contain untrue statements of material fact or that is otherwise false or misleading. No such marketing materials shall state that Clients have a contractual, fiduciary, or investment advisory relationship with Model Manager.

4. BOOKS AND RECORDS.

The Model Manager agrees that all records that it maintains relating to each of the Model Portfolios, except for all records that are proprietary to the Model Manager not required under Rule 204-2 of the Advisers Act, are the property of Adviser or its agents and further agrees to surrender promptly to Adviser or its agents any of such records upon Adviser or its agents' request. The foregoing notwithstanding, the Model Manager may, at its own expense, make and retain a copy of such records, subject to the confidentiality provisions of **Section 16** herein. The Model Manager further agrees to preserve the records required by Rule 204-2 under the Advisers Act on behalf of Adviser or its agents for the period of time specified in that rule.

5. DUE DILIGENCE MATERIALS.

(a) Form ADV. Adviser or its agents and Model Manager each acknowledge that it has received a current copy of the other's Uniform Application for Investment Adviser Registration on Form ADV Part II (or Part 2A, when applicable). Adviser or its agents and Model Manager agree to immediately notify each other of any material amendments to their respective Form ADV Part II (or Part 2A, when applicable). and/or disclosure brochure. Further, both Adviser or its agents and the Model Manager agree to provide the other with amended copies of their respective Form ADV Part II (or Part 2A, when applicable). and/or disclosure brochure upon filing and any supplements or amendments thereto.

(b) Model Manager Profiles. The Model Manager agrees to provide Adviser or its agents with such information as is necessary for Adviser or its agents to draft a "Model Manager Profile", as part of Adviser or its agents' Wrap Fee Brochure, as required under the Advisers Act, containing at least as much information as is required substantially by Part II (or Part 2A, when applicable) of Model Manager's Form ADV. The Model Manager does not represent and warrant that any Model Manager Profile as distributed is true and accurate, except for the information in the Model Manager Profile supplied to Adviser or its agents by the Model Manager.

6. COMPLIANCE.

(a) Regulatory Agencies. Adviser or its agents and the Model Manager each agree that they will immediately notify the other in the event that the SEC, FINRA, and/or any state or other regulatory agency has: (i) censured them; (ii) placed limitations upon their activities, functions, or operations; (iii) suspended or revoked their registration or state notice filing as an investment adviser; and/or (iv) has commenced proceedings or an investigation that may result in any of those actions. The Model Manager further agrees to notify Adviser or its agents immediately of any material fact known to the Model Manager respecting or relating to the Model Manager that is not contained in the Model Manager's Form ADV, or any supplement or amendment thereto, or of any statement contained therein that becomes untrue in any material respect.

7. COMPENSATION.

For services provided pursuant to this Agreement, Adviser or its agents will pay to Model Manager, as compensation for Model Manager's services, a fee as defined in Exhibit A. This fee will be based on those assets in Client's Program Accounts invested in accordance with each of the Model Manager's Model Portfolios, based on the market value of the assets in such Clients' Program Accounts. Methods of calculating the market value of the assets are defined in Exhibit A.

Adviser or its agents will be responsible for the calculation and payment of all fees owed to Model Manager for services provided under this Agreement.

For accounts where the Adviser or its agents receives the Model Portfolio data feeds and updates directly from the Model Manager, the Advisor agrees to keep accurate books of such account and records as are necessary to document all amounts due to the Model Manager hereunder and retain such records for a period of thirty-six (36) months. Model Manager, or its authorized agent, shall have the right, at its own expense and not more often than once a year, to examine such books of account and records to verify the payment due hereunder. Such audit right shall continue for the twelve (12) months following termination of this Agreement.

8. EXPENSES.

Except for expenses specifically assumed or agreed to be paid by the Model Manager pursuant hereto, the Model Manager will not be liable for any expenses of Adviser or its agents or any Program Account, including, without limitation: (a) interest and taxes; (b) brokerage commissions and other costs in connection with the purchase or sale of securities or other investment instruments with respect to the Program Accounts; and (c) administrator's fees and expenses. The Model Manager will pay its own expenses incurred in furnishing the services to be provided by it pursuant to this Agreement.

9. SERVICES NOT EXCLUSIVE.

It is understood that the services of the Model Manager are not exclusive, and nothing in this Agreement will prevent the Model Manager (or its affiliates) from providing similar services to other clients and/or other advisers and agents, or from engaging in other activities.

10. INDEPENDENT CONTRACTOR.

The Model Manager will for all purposes herein be deemed to be an independent contractor and will, unless otherwise expressly provided herein or authorized by Adviser or its agents from time to time, have no authority to act for or represent Advisor or its agents or in any way or otherwise be deemed its agent or employee.

11. COOPERATION.

Each Party to this Agreement agrees to cooperate with each other Party and with all appropriate governmental authorities having the requisite jurisdiction (including, but not limited to, the SEC, FINRA, and any state or other regulatory agency) in connection with any investigation or inquiry relating to this Agreement, provided, however, that the party cooperating with any such governmental authority shall promptly notify the other party of any such cooperation, subject to applicable law.

12. REPRESENTATIONS AND WARRANTIES.

(a) <u>Model Manager.</u> Model Manager represents, warrants and covenants to Adviser or its agents that:

(i) It is a duly registered investment adviser under the Advisers Act, and will continue to be so registered for so long as this Agreement remains in effect;

(ii) All actions necessary for the authorization, execution and delivery of this Agreement have been taken;

(iii) The Agreement is a valid and binding obligation of the Model Manager enforceable in accordance with its terms; and

(iv) It has the necessary rights and authority to grant the licenses contained herein.

(b) <u>Adviser or its agents.</u> Adviser or its agents represents, warrants and covenants to the Model Manager that:

(i) It is a duly registered investment adviser with either the SEC or the appropriate state securities department in which its principal place of business is located and will continue to be so registered for so long as this Agreement remains in effect;

(ii) All actions necessary for the authorization, execution and delivery of this Agreement have been taken;

(iii) The Agreement is a valid and binding obligation of Adviser or its agents enforceable in accordance with its terms;

(iv) It shall operate the Program in accordance with Rule 3a-4 under the 1940 Act; and

(v) It will maintain all books, records and documentation required under the Advisers Act and in accordance with Rule 3a-4 under the 1940 Act, with respect to the Program and Model Manager's services provided pursuant to this Agreement ("Required Records"). The Adviser or its agents will promptly provide the Model Manager with copies of or access to such Required Records in connection with a regulatory inquiry of the Model Manager or upon the Model Manager's reasonable request. The Adviser or its agents will maintain Required Records on Model Manager's behalf for the period necessary under the Advisers Act. This Section 12(b)(v) shall survive termination of the Agreement.

13. LIABILITY.

MODEL MANAGER MAKES NO WARRANTIES, EXPRESS OR IMPLIED, OTHER THAN THE

EXPRESS WARRANTIES CONTAINED IN SECTION 12. ANY AND ALL OTHER WARRANTIES OF ANY KIND WHATSOEVER, INCLUDING WITHOUT LIMITATION, THOSE FOR MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARE EXPRESSLY DISCLAIMED WITH RESPECT TO THE INTELLECTUAL PROPERTY. MODEL MANAGER AND ITS AFFILIATES MAKE NO REPRESENTATION OR WARRANTY AS TO THE ACCURACY, COMPLETENESS, RELIABILITY, OR OTHERWISE OF THE INTELLECTUAL PROPERTY OR ANY DATA INCLUDED THEREIN. MODEL MANAGER AND ITS AFFILIATES WILL OBTAIN DATA FROM SOURCES IT BELIEVES TO BE RELIABLE, BUT THE ACCURACY AND COMPLETENESS OF THE INTELLECTUAL PROPERTY ARE NOT WARRANTED AND THEY ARE SUPPLIED ON AN "AS IS" AND "AS AVAILABLE" BASIS. Except as provided in Section 14 of this Agreement, and as may otherwise be required by applicable law, Adviser or its agents agrees that the Model Manager, any affiliated person of the Model Manager, and each person, if any, who controls the Model Manager within the meaning of Section 15 of the Securities Act of 1933, as amended ("Securities Act"), will not be liable for, or subject to any losses, claims, damages, liabilities or expenses in connection with any act or omission connected with or arising out of any services rendered under this Agreement, except by reason of willful misconduct, bad faith, or gross negligence in the performance of the Model Manager's duties, or by reason of reckless disregard of the Model Manager's obligations and duties under this Agreement.

14. INDEMNIFICATION.

(a) Model Manager. The Model Manager will indemnify and hold harmless Adviser or its agents and its affiliates, and their trustees, directors, managers, officers, employees, agents, and each person, if any, who controls Adviser or its agents within the meaning of Section 15 of the Securities Act, against any and all losses, claims, damages, liabilities or expenses (including reasonable attorneys' fees and amounts paid in settlement with the written consent of the Model Manager) to which such indemnified parties may become subject under any statute, regulation, at common law or otherwise, insofar as such losses, claims, damages, liabilities or expenses arise out of, or as a result of, the Model Manager's willful misconduct, bad faith, breach of fiduciary duty or gross negligence in the performance of its services or obligations under this Agreement, or the Model Manager's reckless disregard of its obligations under this Agreement; provided, however, that in no case is the Model Manager's indemnity in favor of such indemnified persons to be deemed to protect such persons against any liability to which any such persons would otherwise be subject by reason of their willful misconduct, bad faith or gross negligence in the performance of their duties or by reason of their reckless disregard of its obligations and duties under this Agreement.

(b) Adviser or its agents. Adviser or its agents will indemnify and hold harmless the Model Manager and its affiliates, and their trustees, directors, managers, officers, employees, agents, and each person, if any, who controls the Model Manager within the meaning of Section 15 of the Securities Act, against any and all losses, claims, damages, liabilities or expenses (including reasonable attorneys' fees and amounts paid in settlement with the written consent of Adviser or its agents) to which such indemnified parties may become subject under any statute, regulation, at common law or otherwise, insofar as such losses, claims, damages, liabilities or expenses arise out of Adviser or its agents' willful misconduct, bad faith, breach of fiduciary duty or gross negligence in the performance of its obligations under this Agreement or in its operation of the Program, or Adviser or its agents' reckless disregard of its obligations under this Agreement or its obligations as Program sponsor (including, specifically, that Adviser or its agents understands that the Model Manager will not have access to Client personal information, customization options, asset allocations strategy, Model Portfolios, tax status, style selection, rebalancing schedule, security exclusions, sector exclusions, tax selling preferences and other such customization options) and hereby agrees to indemnify the Model Manager for all activity on the part of Adviser or its agents related to this information, as well as for failure to comply with Rule 3a-4 under the 1940 Act, errors made by Adviser or its agents in the operation of the Model Portfolios, rebalancing of the Model Portfolios, the transmission of trading instructions to Adviser or its agents' executing broker, or the accuracy, timeliness, delivery and storage of documents required for distribution for the Program, including trade confirms, custodial statements, performance reporting and 1099 tax reporting; provided, however, that in no case is Adviser or its agents' indemnity in favor of such indemnified persons to be deemed to protect such persons against any liability to which any such persons would otherwise be subject by reason of willful misconduct, bad faith or gross negligence in the performance of their duties or by reason of their reckless disregard of their obligations and duties under this Agreement.

(c) Notifications. Each party shall promptly notify the other party of any action commenced against it for which indemnity may be sought hereunder, but a party's failure to so notify the other party shall not relieve the party from any liability which it may have otherwise than on account of this indemnity agreement.

15. TERM AND TERMINATION.

This Agreement will take effect as of the date hereof, and will remain in effect for 2 years from such date, and continue thereafter on an annual basis; provided, however, that this Agreement may be terminated, without penalty, at any time by either Party upon ninety (90) days written notice, or upon termination of the Program, provided that the Model Manager has received prior written notice thereof.

Notwithstanding the foregoing, the licenses granted pursuant to Section 3 and the fees applicable thereto may be terminated by either party upon ninety (90) days prior written notice.

16. CONFIDENTIAL INFORMATION.

(a) Adviser's Confidential Information. The Model Manager agrees that Adviser's confidential information ("Adviser's Confidential Information") consists of, but is not limited to, the following (but acknowledges the right of Adviser or its agents to disclose such information): (i) all documents, reports, records, books, files and other materials relating to the Clients or any Program Accounts, whether provided by Adviser or its agents or created or maintained by the Model Manager in connection with the performance of its obligations under this Agreement; (ii) information marked confidential; (iii) a Client's non-public personal information; and (iv) information which, by the nature of the circumstances surrounding the disclosure, ought in good faith be treated as proprietary or confidential. The Model Manager recognizes that Adviser or its agents' business interests require a confidential relationship between Adviser or its agents and the Model Manager and the fullest practical protection and confidential treatment of Adviser or its agents' Confidential Information. The Model Manager agrees that Adviser or its agents' Confidential Information is proprietary to Adviser or its agents, and is owned exclusively by Adviser or its agents, and that disclosure would be harmful and damaging to Adviser or its agents' business. Except as otherwise permitted by this Agreement or as required by legal process or by any governmental or regulatory authority having jurisdiction over it, the Model Manager will not disclose, disseminate or use any of Adviser's or its agents' Confidential Information, without Adviser's or its agents' prior written consent, until such time as such information may come into the public domain. The Model Manager will take any and all reasonable actions to limit disclosure of Adviser's or its agents' Confidential Information to only those employees, officers, consultants and agents of the Model Manager who need to know such information to perform their administrative duties, in the ordinary course of business, in relation to this Agreement.

(b) Model Manager's Confidential Information. Adviser or its agents agrees that Model Manager's Confidential Information ("Model Manager's Confidential Information, and together with Adviser or its agents' Confidential Information, the "Confidential Information") consists of, but is not limited to, the following: (i) investment practices and methods, including, without limitation, the Model Portfolio, (ii) investment research; (iii) the Intellectual Property; (iv) all other documents, reports, records, books, files and other materials relating to the Model Manager, other than those materials defined as Confidential Information by Adviser or its agents in **Section 16(a)** above; and (v) information which, by the nature of the circumstances surrounding the disclosure, ought in good faith be treated as proprietary or confidential. Adviser or its agents agrees that Model Manager's business interests require the fullest practical protection of Model Manager's Confidential Information. Adviser or its agents agrees that Model Manager's Confidential Information is proprietary to Model Manager and is owned exclusively by Model Manager, and that disclosure would be harmful and damaging to Model Manager. Except as otherwise permitted by this Agreement or as required by legal process or by any governmental or regulatory authority having jurisdiction over it, Adviser or its agents will not disclose, disseminate or use any of the Model Manager's Confidential Information for anything other than the Program, without the Model Manager's prior written consent, until such time as such information may come into the public domain. Adviser or its agents will take any and all reasonable actions to limit disclosure of the Model Manager's Confidential Information to only those employees, officers, consultants and agents of Adviser or its agents who need to know such information to perform their administrative duties, in the ordinary course of business, in relation to this Agreement.

(c) Termination and Confidential Information. Upon termination, and upon request at any time during the term of this Agreement, either party will promptly deliver to the other, any and all Confidential Information of the other party then in the delivering party's possession in any form or format, or certify to the destruction of such Confidential Information. However, the delivering party will be authorized to maintain such copies of Confidential Information as necessary to fulfill its legal and regulatory requirements, and for no other purpose.

(d) Disclosure of Confidential Information. If either party becomes legally compelled to disclose any Confidential Information of the other party or is served with any regulatory request, subpoena, discovery device or other legal process seeking Confidential Information of the other party, the party being so compelled may provide such Confidential Information provided that it will first provide the other party with prompt written notice to that effect, so that the other party may seek a protective order concerning such Confidential Information.

(e) Injunctive Relief. The parties acknowledges that monetary damages may not be a sufficient remedy for unauthorized disclosure or use of Confidential Information and that either party shall be entitled, without waiving any other rights or remedies, to such injunctive or equitable relief as may be deemed proper by a court of competent jurisdiction.

17. NOTICES.

Any notice, instruction or other communication required or contemplated by this Agreement will be in writing. All such communications will be addressed to the recipient at the address set forth below, provided that either party may, by notice, designate a different address for such party.

To Adviser:
Navellier & Assoc., Inc.
Peter R. Knapp
One East Liberty
Reno, NV 59501

To Model Manager:

F-Squared Institutional Advisors, LLC
2221 Washington St., Suite 201
Newton, MA 02462

18. MISCELLANEOUS.

(a) Amendments. Any amendments to this Agreement will be in writing and signed by the parties hereto.

(b) Assignment. Neither party to this Agreement will assign this Agreement without the other party's consent, except that an assignment that does not result in a change in control or management of the Model Manager will be permitted solely upon written notice to the other party. In the event of the sale of substantially all of the business or assets of either party, the other party may, in its sole discretion, after reasonable time to conduct a thorough due diligence investigation of the proposed purchaser, consent to the assignment of this Agreement to such purchaser.

(c) Governing Law. To the extent that state law is not pre-empted by the provisions of any law of the United States of America, all matters arising under or related to this Agreement shall be governed by, construed, interpreted and enforced in accordance with the internal laws of Delaware.

(d) Severability. If any provision of this Agreement is held by any court to be invalid, void or unenforceable, in whole or in part, the other provisions shall remain unaffected and shall continue in full force and effect, provided that the Agreement, as so modified, continues to express, without material change, the original intent of the parties and deletion of such provision will not substantially impair the respective rights and obligations of the parties, and if any provision is inapplicable to any person or circumstance, it shall nevertheless remain applicable to all other persons and circumstances.

(e) Counterparts. This Agreement may be executed in one or more counterparts, each of which will be deemed an original.

(f) Entire Agreement. This is the entire Agreement between the parties with respect to the subject matter hereof. All prior agreements, negotiations, discussions, notes, and memoranda between the parties with respect to the subject of this Agreement are hereby deemed to be merged into this Agreement.

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be signed on its behalf by its duly authorized officer as of the date first written above.

MODEL MANAGER:

F-SQUARED INSTITUTIONAL ADVISORS, LLC

Signature: ______________________________

Name: ______________________________

Title: ______________________________

ADVISER:

NAVELLIER AND ASSOC., INC.

Signature: ______________________________

Name: ______________________________

Title: ______________________________

Exhibit A

Model Portfolios

Model Portfolio Name	Public Benchmark	AlphaSector Index	Fee
AlphaSector Domestic Equity	S&P500	ASRX	40bp (Monthly) 60bp (Weekly)
AlphaSector Global Equity	MSCI World		40bp (Monthly) 60bp (Weekly)
AlphaSector International Equity	MSCI Work ex-US		40bp (Monthly) 60bp (Weekly)
AlphaSector Allocator	DJ Moderate Allocation		40bp (Monthly) 60bp (Weekly)
AlphaSector Fixed Income	iShares Barclays Aggregate		40bp (Monthly) 60bp (Weekly)
AlphaSector Allocator XFI			60bp(Weekly)
AlphaSector AlphaDEX			60bp(Weekly)
AlphaSector Allocator AlphaDEX			60bp(Weekly)
AlphaSector International AlphaDEX			60bp(Weekly)
AlphaSector Global AlphaDEX			60bp(Weekly)
AlphaDEX Allocator XFI			60bp(Weekly)

Investment Objective:

The investment objectives of the Model Portfolios specified above are to track price and yield performance of the corresponding AlphaSector Index.

Indexes licensed under this Agreement:

AlphaSector Domestic Equity	_____Monthly Traded	__X__Weekly Traded (Premium)
AlphaSector Global Equity	_____Monthly Traded	__X__Weekly Traded (Premium)
AlphaSector International Equity	_____Monthly Traded	__X__Weekly Traded (Premium)
AlphaSector Allocator	_____Monthly Traded	__X__Weekly Traded (Premium)
AlphaSector Fixed Income	_____Monthly Traded	______Weekly Traded (Premium)
AlphaSector Allocator XFI	_____Monthly Traded	__X__Weekly Traded (Premium)
AlphaSector AlphaDEX	_____Monthly Traded	__X__Weekly Traded (Premium)
AlphaSector Allocator AlphaDEX	_____Monthly Traded	__X__Weekly Traded (Premium)
AlphaSector International AlphaDEX	_____Monthly Traded	__X__Weekly Traded (Premium)
AlphaSector Global AlphaDEX	_____Monthly Traded	__X__Weekly Traded (Premium)
AlphaSector AlphaDEX Allocator XFI	_____Monthly Traded	__X__Weekly Traded (Premium)

Compensation:

For services provided pursuant to this Agreement including licenses granted pursuant to Section 3 of this Agreement, Adviser will pay to Model Manager, as compensation for Model Manager's services, the basis point cost specified above under "Fees" (on an annualized basis) of those assets in Client's Program Accounts invested in accordance with each of the Model Manager's Model Portfolios.

Adviser will pay Model Manager on a quarterly basis (monthly for Common Trust Fund), paid in arrears, for its services hereunder, within 15 calendar days of the end of each calendar quarter or within 15 days of invoice receipt. The fee paid to the Model Manager is paid based on the market value of the total assets invested in accordance with each Model Portfolio across all accounts utilizing such Model Portfolio during the immediately preceding calendar quarter, and based on one of the following methodologies (select the one that applies):

- ☐ The average daily market value of the assets in such Client's Program Accounts during the preceding calendar quarter.
- ☑ The value of the assets in such Client's Program Accounts during the LAST business day of the preceding calendar quarter. For Client's Program Accounts established and Client's Program Accounts with contributions during the preceding calendar quarter, the fee will be adjusted pro-rata based on the initial investment value of the contributions for those assets.
- ☐ The average of the market values of the assets in such Client's Program Accounts as calculated on the last business day of each month during the preceding calendar quarter.
- ☐ The value of the assets in such Client's Program Accounts during the FIRST business day of the current calendar quarter. For accounts with contributions during the current calendar quarter, the fee will be applied pro-rata based on the initial investment value of any contributions for those assets. (This option requires prior approval by F-Squared Investments.)

Reporting Requirements:

- ☑ Adviser agrees to provide to Model Manager total account balances of all client assets tracking the above referenced Model Portfolios within 14 calendar days of the end of each calendar month. Report is to be reviewed and approved by an officer of the Model Manager.

EXHIBIT 24

EXHIBIT
1

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

SECURITIES AND EXCHANGE COMMISSION, Plaintiff, v. NAVELLIER & ASSOCIATES, INC., and LOUIS NAVELLIER, Defendants.	Civil Action No. 17-cv-11633

[PROPOSED]
DEFENDANTS' AMENDED ANSWER TO COMPLAINT

Defendants Navellier & Associates, Inc. ("NAI") and Louis Navellier ("Mr. Navellier") (collectively, "Defendants") hereby answer, and assert affirmative and other **defenses and counterclaims to**, the Complaint of the Securities and Exchange Commission ("SEC") in the above-referenced action.

Preliminary Statement

Louis Navellier and Navellier & Associates, Inc. deny the allegation by the SEC that they **or either of them** violated the Investment Advisers Act and look forward to defending **before a jury [~~in an impartial forum~~]** the SEC's unfounded claims about **NAI's** marketing **(Navellier did not market)** of Vireo products. **In addition to not violating the Investment Advisers Act as asserted by the SEC, said Defendants believe and assert that the SEC has violated**

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to admit or deny the allegations in the sixth sentence concerning the purported falsity of the Vireo AlphaSector performance track record. The allegations in the sixth sentence concerning purported prior misrepresentations or fraud are characterizations, arguments, or conclusions of law to which no response is required. To the extent that they have not been specifically denied **or** admitted, **[~~or otherwise addressed,~~]** Defendants deny any and all remaining allegations in paragraph 3.

4. With respect to paragraph 4, Defendants admit that F-Squared's advertisements and marketing materials represented that the performance track record of the strategy underlying AlphaSector was based on live trading since approximately 2001. Defendants lack knowledge or information sufficient to admit or deny the allegation in the first sentence of paragraph 4 that the track record of Vireo AlphaSector was inflated **and therefore deny all other allegations in the first sentence.** The allegation in the first sentence that the track record was "substantially" inflated, and the allegations concerning Defendants' state of mind in the first and second sentences are characterizations, arguments, or conclusions of law to which no response is required. To the extent that they have not been specifically denied, admitted, or otherwise addressed, Defendants deny any and all remaining allegations in paragraph 4.

5. With respect to paragraph 5, first sentence, Defendants admit that NAI distributed marketing materials for Vireo AlphaSector strategies **to investment professionals and a few clients,** but lack knowledge or information sufficient to admit or deny the allegation that statements in those materials were false **and therefore deny said allegations.** Defendants further lack knowledge or information sufficient to admit or deny whether a strategy or performance track record had been characterized as being "real." As to the second sentence,

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Defendants admit that the Vireo AlphaSector index was back-tested, but lack knowledge or information sufficient to admit or deny whether the strategy said by F-Squared to underlie the AlphaSector index was also back-tested. The allegations in the second sentence that purport to describe or define "back-testing" are characterizations, arguments, or conclusions of law to which no response is required. Defendants deny the allegations in the third sentence. As to the fourth sentence, Defendants lack knowledge or information sufficient to admit or deny the alleged content of F-Squared's CEO's admissions, or the alleged misrepresentations by NAI representatives **and therefore deny said allegations.** As to the fifth sentence, Defendants admit that NAI **[~~modified statements contained in its advertising and marketing materials concerning the Vireo AlphaSector track record on more than one occasion, and admit that they never told NAI's Vireo AlphaSector clients about the changes that NAI made to the Vireo AlphaSector advertising and marketing materials, but lack knowledge or information sufficient to admit or deny that previous statements about Vireo AlphaSector's track record had been false~~] made changes to its Vireo marketing materials but deny the remaining allegations.** To the extent that they have not been specifically denied, admitted, or otherwise addressed, Defendants deny any and all remaining allegations in paragraph 5.

6. With respect to paragraph 6, Defendants deny the allegations in the first sentence. As to the second sentence, Defendants **[~~admit that Defendants came to believe that certain older Vireo AlphaSector advertising materials could have been subject to misinterpretation, including by the SEC, and that such misinterpretation could result in unwanted and unwarranted legal scrutiny or investigation, and~~] deny the allegations except** admit that NAI sold the residual Vireo line of business to F- Squared for approximately

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EXHIBIT 25

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[redacted]

The attached documents are strictly confidential, and expressly covered by the NDA between our two firms.

Please call with any additional questions. Looking forward to our meeting on Friday.

HP

[redacted]

[redacted]

[redacted]

Daily Returns

	XLY	XLP	XLE	XLF	XLV	XLI	XLB	XLK	XLU	EFA	EEM	BIL
3/31/2001												
4/1/2001	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%			0.005%
4/2/2001	0.038%	-1.331%	-1.851%	0.451%	-1.230%	-0.712%	0.548%	-2.419%	0.317%			0.005%
4/3/2001	-3.365%	-1.840%	-2.740%	-3.365%	-2.227%	-4.154%	-2.032%	-8.694%	-0.475%			0.005%
4/4/2001	1.068%	1.291%	1.769%	-2.437%	0.616%	0.473%	1.923%	-1.904%	0.382%			0.005%
4/5/2001	2.231%	1.028%	2.607%	3.645%	2.484%	5.804%	3.276%	10.564%	-0.158%			0.005%
4/6/2001	-0.306%	-0.326%	0.130%	-2.219%	-0.449%	-2.002%	-1.154%	-4.655%	-2.347%			0.005%
4/7/2001	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%			0.005%
4/8/2001	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%			0.005%
4/9/2001	-0.922%	0.857%	2.342%	-0.033%	1.241%	1.778%	1.653%	0.257%	2.176%			0.005%
4/10/2001	1.008%	-0.121%	1.717%	2.897%	1.968%	2.930%	4.353%	6.707%	2.066%			0.005%
4/11/2001	-1.113%	-1.905%	-1.781%	0.957%	-1.202%	-1.119%	-1.238%	3.643%	-1.339%			0.005%
4/12/2001	-1.708%	1.322%	1.050%	0.754%	-0.074%	1.972%	-0.464%	2.511%	-0.063%			0.005%
4/13/2001	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%			0.005%
4/14/2001	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%			0.005%
4/15/2001	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%			0.005%
4/16/2001	0.474%	0.000%	1.952%	-0.711%	0.701%	-0.179%	0.187%	-2.411%	1.580%			0.005%
4/17/2001	1.376%	1.754%	0.986%	0.830%	1.722%	1.255%	-0.140%	1.042%	2.301%			0.005%
4/18/2001	6.136%	-0.521%	-0.979%	4.189%	3.998%	4.286%	4.145%	9.094%	-2.087%			0.005%
4/19/2001	0.292%	-0.201%	-1.730%	0.539%	0.104%	0.340%	-1.611%	6.305%	0.186%			0.005%
4/20/2001	-1.056%	-1.292%	1.068%	-1.714%	0.277%	-0.271%	-0.273%	-1.153%	-1.177%			0.005%
4/21/2001	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%			0.005%
4/22/2001	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%			0.005%
4/23/2001	-0.663%	0.491%	2.643%	-1.225%	-2.312%	-1.528%	-0.684%	-5.533%	0.219%			0.005%
4/24/2001	-1.742%	-1.831%	0.182%	-0.516%	0.283%	-1.000%	0.459%	-1.553%	0.469%			0.005%
4/25/2001	0.075%	2.663%	1.421%	1.073%	1.169%	2.333%	-0.366%	1.752%	1.744%			0.005%
4/26/2001	2.487%	1.929%	1.966%	0.402%	1.253%	1.395%	3.395%	-1.409%	0.828%			0.005%
4/27/2001	2.350%	0.560%	-0.677%	2.150%	-0.963%	0.738%	-0.089%	1.358%	0.061%			0.005%
4/28/2001	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%			0.005%
4/29/2001	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%			0.005%
4/30/2001	-1.760%	0.557%	0.001%	-1.605%	0.000%	-1.033%	-1.421%	1.903%	0.091%			0.005%
5/1/2001	1.098%	1.111%	-0.650%	0.836%	1.562%	0.911%	1.131%	2.041%	0.945%			0.005%
5/2/2001	0.797%	-0.569%	-3.893%	0.793%	0.308%	0.033%	0.000%	2.000%	-1.269%			0.005%
5/3/2001	-1.160%	-0.513%	-0.495%	0.036%	-1.943%	-1.471%	-0.179%	-3.160%	-1.285%			0.005%
5/4/2001	0.909%	0.673%	1.585%	1.216%	0.313%	1.527%	1.703%	1.442%	1.023%			0.005%
5/5/2001	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%			0.005%
5/6/2001	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%			0.005%
5/7/2001	-0.757%	-0.039%	0.276%	-0.630%	0.243%	0.368%	-1.190%	-0.474%	0.521%			0.005%
5/8/2001	-0.073%	-0.354%	-0.092%	-1.031%	-1.669%	0.167%	0.268%	0.810%	-1.434%			0.005%
5/9/2001	-1.526%	0.513%	1.771%	-0.108%	0.633%	-0.565%	0.979%	-1.353%	0.155%			0.005%
5/10/2001	2.578%	-0.511%	-0.720%	0.036%	0.664%	1.103%	2.115%	-1.471%	0.062%			0.005%
5/11/2001	0.430%	-0.503%	-0.967%	-0.935%	0.486%	-0.496%	-1.984%	-1.076%	0.062%			0.005%
5/12/2001	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%			0.005%
5/13/2001	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%			0.005%
5/14/2001	-0.250%	0.874%	1.556%	0.835%	-0.449%	0.465%	0.704%	-1.404%	1.325%			0.005%
5/15/2001	-0.358%	-0.591%	0.901%	0.612%	0.451%	0.397%	0.743%	-0.176%	-0.670%			0.005%
5/16/2001	1.222%	3.050%	0.834%	2.583%	2.752%	3.229%	5.206%	4.064%	2.147%			0.005%
5/17/2001	1.526%	0.500%	0.325%	-0.523%	0.874%	1.660%	1.031%	0.582%	-0.601%			0.005%
5/18/2001	-0.070%	-0.535%	2.090%	-0.560%	0.266%	0.314%	-0.490%	0.443%	0.604%			0.005%
5/19/2001	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%			0.005%
5/20/2001	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%			0.005%
5/21/2001	1.120%	-0.077%	-0.231%	1.409%	1.526%	0.970%	0.861%	4.442%	0.360%			0.005%
5/22/2001	0.035%	-0.731%	-1.156%	1.424%	0.033%	-0.031%	-2.237%	-0.325%	0.150%			0.005%
5/23/2001	-1.487%	-1.163%	-1.374%	-0.822%	-1.570%	-1.792%	-1.373%	-2.313%	-0.538%			0.005%
5/24/2001	-0.351%	0.431%	-0.178%	0.380%	1.230%	-0.126%	-2.741%	0.767%	-0.270%			0.005%
5/25/2001	-0.493%	-0.820%	-0.851%	-1.342%	-0.722%	-1.486%	0.130%	-1.886%	-1.566%			0.005%
5/26/2001	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%			0.005%
5/27/2001	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%			0.005%
5/28/2001	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%			0.005%
5/29/2001	-0.779%	0.827%	-0.150%	0.070%	-0.761%	-0.257%	1.343%	-3.744%	-0.061%			0.005%
5/30/2001	-1.820%	0.547%	-0.390%	-0.836%	-0.333%	-2.027%	-2.051%	-4.004%	-0.429%			0.005%
5/31/2001	1.599%	-0.693%	1.054%	0.878%	-0.033%	1.379%	0.131%	0.913%	1.568%			0.005%
6/1/2001	-0.358%	1.330%	-0.447%	-0.174%	-0.301%	-0.292%	0.826%	1.701%	-0.840%			0.005%
6/2/2001	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%			0.005%
6/3/2001	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%			0.005%
6/4/2001	-0.323%	0.154%	1.347%	0.803%	0.134%	0.650%	1.124%	-0.214%	0.061%			0.005%

Morningstar's Synthetic Share Price - Market Price Index

	XLY	XLP	XLE	XLF	XLV	XLI	XLB	XLK	XLU	EFA	EEM	BIL
3/31/2001	26.5085	25.3872	31.7935	27.3185	27.0392	27.3269	21.2853	24.8006	33.8111			37.16300577
4/1/2001	26.5085	25.3872	31.7935	27.3185	27.0382	27.3269	21.2853	24.8006	33.8111			37.16467825
4/2/2001	26.5186	25.0295	31.2051	27.4396	26.7036	27.1322	21.4020	24.2006	33.9164			37.16635082
4/3/2001	25.6263	24.5691	30.3482	26.5103	26.1090	26.0051	20.9570	22.5806	33.7574			37.16802345
4/4/2001	25.9001	24.8853	30.8855	25.8700	26.2702	26.1281	21.3701	22.1506	33.8862			37.16969615
4/5/2001	26.4781	25.1421	31.6003	26.8138	26.9253	27.6446	22.0703	24.4906	33.8326			37.17136895
4/6/2001	26.3969	25.0802	31.7316	26.2185	26.8044	27.0912	21.8157	23.3506	33.0384			37.17304181
4/7/2001	26.3969	25.0802	31.7316	26.2155	26.8044	27.0912	21.8157	23.3506	33.0384			37.17471475
4/8/2001	26.3969	25.0802	31.7316	26.2185	26.8044	27.0912	21.8157	23.3506	33.0384			37.17638776
4/9/2001	26.1536	25.2751	32.4740	26.2085	27.1370	27.5728	22.1764	23.4100	33.7574			37.17806085
4/10/2001	26.4172	25.2444	33.0324	26.9377	27.6712	28.3823	23.1417	24.9806	34.4550			37.17973401
4/11/2001	26.1232	24.7635	32.4439	27.1934	27.3365	28.0647	22.8563	25.6907	33.9936			37.18140725
4/12/2001	25.6770	25.0909	32.7846	27.3965	27.3154	28.6180	22.7492	26.5407	33.9721			37.18308057
4/13/2001	25.6770	25.0909	32.7846	27.3965	27.3154	28.6180	22.7492	26.5407	33.9721			37.18475395
4/14/2001	25.6770	25.0909	32.7846	27.3965	27.3154	28.6180	22.7492	26.5407	33.9721			37.18642742
4/15/2001	25.6770	25.0909	32.7846	27.3965	27.3154	28.6180	22.7492	26.5407	33.9721			37.18810096
4/16/2001	25.7987	25.0909	33.4247	27.2036	27.6099	28.5668	22.7917	25.9007	34.5087			37.18977450
4/17/2001	26.1536	25.5309	33.7550	27.4203	27.9836	28.9254	22.7569	26.1707	35.3029			37.19144827
4/18/2001	27.7557	25.3079	33.4247	26.5783	29.1023	30.1062	23.7040	28.5507	34.5731			37.19312203
4/19/2001	27.8365	25.3467	32.8465	28.7322	29.1325	30.2677	23.3221	30.3506	34.8375			37.19479557
4/20/2001	27.5427	25.0193	33.1976	28.2393	29.2132	30.1857	23.2584	30.0006	34.2297			37.19646979
4/21/2001	27.5427	25.0193	33.1976	28.2396	29.2132	30.1857	23.2584	30.0006	34.2297			37.19814376
4/22/2001	27.5427	25.0193	33.1976	28.2398	29.2132	30.1857	23.2584	30.0006	34.2297			37.19981786
4/23/2001	27.3602	25.1421	34.0751	27.8016	28.5379	29.7246	23.0093	28.3407	34.3045			37.20149199
4/24/2001	26.8636	24.6817	34.1370	27.7474	28.6155	29.4275	23.2054	27.9037	34.4568			37.20316621
4/25/2001	26.9339	25.3385	34.6222	28.0444	28.9512	30.1140	23.1205	28.3807	35.1665			37.2048405
4/26/2001	27.6732	25.6718	35.3036	28.1577	29.3140	30.5341	23.9365	27.8837	35.3763			37.20651457
4/27/2001	28.2322	25.7151	35.0661	28.7630	29.0318	30.7595	23.8843	28.3707	35.3995			37.20818931
4/28/2001	28.2322	25.7151	35.0661	28.7630	29.0316	30.7595	23.8843	28.3707	35.3995			37.20986353
4/29/2001	28.2322	25.7151	35.0661	28.7630	29.0318	30.7595	23.8843	28.3707	35.3995			37.21153843
4/30/2001	27.7354	25.8583	35.0664	28.3013	29.0318	30.4419	23.5449	28.9107	35.4317			37.2132131
5/1/2001	28.0402	26.1456	34.8376	28.5380	29.4854	30.7193	23.8112	29.5208	35.7665			37.21488784
5/2/2001	28.2637	25.9017	33.4824	28.7644	29.5761	30.7296	23.8112	30.0506	35.3125			37.21656265
5/3/2001	27.9358	25.5583	33.3167	28.7747	29.0016	30.2775	23.7886	29.1307	34.8591			37.21823756
5/4/2001	28.1926	26.0641	33.8447	29.1246	29.0923	30.7398	24.1734	29.5508	35.2156			37.21991253
5/5/2001	28.1926	26.0841	33.8447	29.1246	29.0923	30.7300	24.1734	29.5509	35.2158			37.22158756
5/6/2001	28.1926	26.0841	33.8447	29.1246	29.0923	30.7398	24.1734	29.5509	35.2156			37.2232627
5/7/2001	27.9792	26.0738	33.9379	28.9394	29.1628	30.8529	23.6558	29.4108	35.3992			37.2249379
5/8/2001	27.9589	25.8815	33.9068	28.6405	28.6750	30.5642	23.8497	29.8509	34.8915			37.22661317
5/9/2001	27.8322	26.1149	34.5073	28.8101	28.8604	30.7296	24.1641	29.2408	34.9455			37.22828852
5/10/2001	28.3246	25.9515	34.2589	28.6204	29.0520	31.0396	24.6955	28.8107	34.9672			37.22996394
5/11/2001	28.4460	25.8378	33.9276	28.3528	29.1931	30.9145	24.2054	28.5007	34.9888			37.23163944
5/12/2001	28.4466	25.8378	33.9276	28.3528	29.1931	30.9145	24.2054	28.5007	34.9888			37.23331502
5/13/2001	28.4460	25.8378	33.9276	28.3526	29.1931	30.9145	24.2054	28.5007	34.9838			37.23499067
5/14/2001	28.3754	26.0635	34.4556	28.5896	29.0520	31.0563	24.3759	28.1007	35.4523			37.23666639
5/15/2001	28.2738	25.9095	34.7662	28.7544	29.1931	31.1816	24.5570	28.0507	35.2156			37.23834219
5/16/2001	28.6193	26.6997	35.0561	29.5363	29.9995	32.1885	25.8354	29.1908	35.9718			37.24001807
5/17/2001	29.0561	26.8331	35.1699	29.3319	30.2616	32.7227	26.1018	29.3606	35.7557			37.24169402
5/18/2001	29.0358	26.6895	35.9050	29.2173	30.3423	32.8255	25.9739	29.4908	35.9718			37.24337005
5/19/2001	29.0358	26.6895	35.9050	29.2173	30.3423	32.8255	25.9739	29.4908	35.9718			37.24504615
5/20/2001	29.0359	26.6895	35.9050	29.2173	30.3423	32.8255	25.9739	29.4906	35.9718			37.24672233
5/21/2001	29.3609	26.6690	35.8222	29.6289	30.6050	33.1440	26.1977	30.8008	36.1014			37.24839858
5/22/2001	29.3711	26.4740	35.4081	30.0505	30.8160	33.1337	25.6117	30.7008	36.1554			37.25007491
5/23/2001	28.9342	26.1662	34.9215	29.8039	30.3322	32.5378	25.2601	29.9906	35.5810			37.25175131
5/24/2001	28.8326	26.2790	34.8503	29.9171	30.7052	32.4967	24.5878	30.2208	35.8637			37.25342779
5/25/2001	28.6904	26.0635	34.5591	29.5157	30.4834	32.0138	24.5996	29.6508	35.3020			37.25510435
5/26/2001	28.6904	26.0635	34.5591	29.5157	30.4834	32.0138	24.5996	29.6508	35.3020			37.25678098
5/27/2001	28.6904	26.0635	34.5591	29.5157	30.4834	32.0138	24.5906	29.6508	35.3020			37.25845769
5/28/2001	28.6904	26.0635	34.5591	29.5157	30.4834	32.0138	24.5996	29.6508	35.3020			37.26013447
5/29/2001	28.4669	26.2750	34.5073	29.5363	30.2515	31.9316	24.9299	26.5407	35.2804			37.26181132
5/30/2001	27.9487	26.4227	34.3727	29.2893	30.1507	31.2844	24.4185	27.3807	35.1292			37.26348825
5/31/2001	28.3958	26.2320	34.7361	29.5460	30.1406	31.7159	24.4504	27.6307	35.6801			37.26516528
6/1/2001	28.2942	26.5869	34.5799	29.4951	30.0499	31.6234	24.6529	28.1007	35.3776			37.26684235
6/2/2001	28.2942	26.5869	34.5796	29.4951	30.0499	31.6234	24.6529	28.1007	35.3776			37.26851951
6/3/2001	28.2942	26.5869	34.5796	29.4951	30.0499	31.6234	24.6529	28.1007	35.3776			37.27019574
6/4/2001	28.2027	26.6279	35.0457	29.7316	30.0962	31.8289	24.9299	28.0407	35.3932			37.27187405

6/5/2001	1.189%	1.040%	0.295%	0.450%	0.538%	1.005%	1.154%	3.059%	-1.465%	0.005%	28.5360	25.9050	35.1492	29.8656	30.3725	32.1679	25.2175	29.1507	34.8807	37.27355144
6/6/2001	-1.032%	-1.602%	-2.533%	-0.756%	-0.797%	-1.150%	-1.774%	-0.951%	-2.805%	0.005%	28.2434	26.4740	34.2569	29.6392	30.1336	31.7981	24.7700	28.8707	34.5999	37.2762269
6/7/2001	0.756%	1.098%	-1.179%	-0.060%	0.569%	0.452%	1.161%	2.840%	-0.843%	0.005%	28.4567	25.6567	33.8551	29.4437	30.3019	31.9419	25.0577	29.0908	34.3082	37.27790643
6/8/2001	0.357%	-0.077%	0.275%	-0.524%	-0.532%	-1.222%	-0.353%	-2.273%	0.378%	0.005%	28.5583	25.5046	33.9483	29.2687	30.1406	31.5515	24.9618	29.0307	34.4378	37.27858405
6/9/2001	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.005%	28.5583	25.5048	33.9483	29.2687	30.1406	31.5515	24.9618	29.0307	34.4378	37.28026173
6/10/2001	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.005%	28.5583	25.5046	33.9483	29.2687	30.1406	31.5515	24.9618	29.0307	34.4378	37.2819395
6/11/2001	-1.494%	-1.204%	0.274%	-0.949%	-0.502%	-1.720%	-1.408%	-1.653%	0.941%	0.005%	28.1316	26.1354	34.0414	28.9909	29.9894	31.0070	24.6102	28.5507	34.7019	37.28361733
6/12/2001	0.758%	1.179%	0.760%	0.319%	-0.235%	0.663%	-0.856%	-0.771%	0.870%	0.005%	28.3450	26.4432	34.3003	28.0935	29.9189	31.2124	24.2972	28.3307	35.0044	37.28529525
6/13/2001	-1.075%	-0.776%	-0.483%	-0.814%	-0.472%	-0.362%	0.349%	-2.259%	-2.064%	0.005%	28.0402	26.2360	34.1346	28.8468	29.7777	31.0394	24.4624	27.0007	34.3406	37.28697324
6/14/2001	-1.051%	-0.075%	-2.032%	-1.748%	-1.562%	-0.561%	-2.524%	-3.575%	-2.957%	0.005%	27.7455	25.2175	33.4410	28.3425	29.2233	30.8940	23.6645	26.7007	33.3752	37.2886513
6/15/2001	-0.693%	-0.584%	0.746%	0.512%	-0.269%	-0.518%	-0.317%	-0.936%	0.613%	0.005%	27.4699	26.0643	33.6905	28.4877	29.1446	30.7346	23.7883	26.4507	33.5295	37.29032944
6/16/2001	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.005%	27.4699	26.0643	33.6905	28.4877	29.1446	30.7346	23.7888	26.4507	33.5295	37.29200766
6/17/2001	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.005%	27.4699	26.0643	33.6905	28.4877	29.1446	30.7346	23.7888	26.4507	33.5295	37.29368595
6/18/2001	1.073%	0.215%	-1.108%	0.253%	-1.522%	-0.134%	-0.995%	-2.485%	0.129%	0.005%	27.7645	26.1464	33.3177	28.5997	29.7011	30.6935	23.5545	25.7907	33.5727	37.29536432
6/19/2001	0.329%	0.314%	-1.093%	0.901%	0.281%	-1.035%	0.220%	0.588%	0.230%	0.005%	27.8560	26.2284	33.2867	28.8170	28.7817	30.3750	23.6077	25.8907	33.7023	37.29704276
6/20/2001	1.469%	0.548%	-1.856%	0.536%	2.171%	0.440%	0.903%	1.043%	0.256%	0.005%	28.2624	26.3721	32.6855	28.9714	29.4067	30.5065	23.6208	26.1607	33.7887	37.29872128
6/21/2001	1.797%	0.850%	-1.490%	4.014%	1.131%	0.439%	-0.492%	1.873%	-2.590%	0.005%	28.7703	26.5978	32.1769	30.1343	29.7393	30.6421	23.7036	26.0507	32.5137	37.30039987
6/22/2001	-0.989%	2.778%	1.930%	-1.296%	-1.288%	-0.872%	-1.573%	-0.838%	1.110%	0.005%	28.4859	25.8590	32.8001	29.7433	29.3563	30.3750	23.3307	26.4007	33.2810	37.30207854
6/23/2001	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.005%	28.4859	25.8590	32.8001	29.7433	29.3563	30.3750	23.3307	26.4007	33.2810	37.30375728
6/24/2001	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.005%	28.4859	25.8590	32.8001	29.7433	29.3563	30.3750	23.3307	26.4007	33.2810	37.3054361
6/25/2001	-1.294%	-0.516%	-1.165%	-0.796%	0.240%	-1.319%	-1.142%	1.439%	-1.168%	0.005%	28.1201	25.7256	32.4173	29.5066	29.4268	29.5743	23.0644	26.7807	32.8921	37.307115
6/26/2001	-1.337%	-0.200%	0.607%	-1.256%	-1.542%	0.274%	0.924%	0.250%	1.478%	0.005%	27.7442	25.7256	32.6137	29.1361	28.9732	30.0565	23.2775	26.9307	33.3782	37.30579397
6/27/2001	-0.476%	-0.758%	-2.381%	0.071%	1.531%	-0.205%	0.915%	0.260%	0.227%	0.005%	27.6122	25.5507	31.8372	29.1566	29.4168	29.9949	23.4505	27.0007	33.4539	37.31047302
6/28/2001	1.592%	0.043%	-2.114%	1.271%	0.857%	0.343%	0.091%	1.926%	0.226%	0.005%	28.0490	25.8649	31.1643	29.5271	29.6680	30.0976	23.5118	27.5207	33.5295	37.31215214
6/29/2001	0.435%	2.595%	1.329%	-0.662%	0.442%	-1.126%	0.408%	2.362%	1.063%	0.005%	28.1709	25.0276	31.5764	29.3316	29.7593	29.7555	23.6077	28.1707	33.5859	37.31383134
6/30/2001	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.005%	28.1709	25.0276	31.5764	29.3316	29.7599	29.7555	23.6077	28.1707	33.5859	37.31551061
7/1/2001	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.005%	28.1709	25.0279	31.5784	29.3316	29.7598	29.7556	23.6077	28.1707	33.5859	37.31718996
7/2/2001	0.974%	2.256%	-0.762%	1.225%	0.710%	1.450%	1.036%	-0.071%	0.287%	0.005%	28.4452	25.6025	31.4956	29.0918	30.0115	30.1901	23.8525	28.1507	33.9422	37.31886939
7/3/2001	-0.179%	0.002%	-0.131%	-0.068%	0.000%	0.613%	-0.313%	-0.355%	0.254%	0.005%	28.3944	25.3973	31.4542	29.6712	30.0115	30.3750	23.7782	28.0507	34.0096	37.32054880
7/4/2001	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.005%	28.3944	25.3973	31.4542	29.6712	30.0115	30.3750	23.7782	28.0507	34.0096	37.32222848
7/5/2001	-2.039%	-0.505%	0.893%	-3.024%	-1.170%	-0.776%	-0.403%	-3.203%	0.824%	0.005%	27.8153	25.2434	31.7337	29.4060	29.6587	30.1387	23.6823	27.1507	34.3504	37.32390811
7/6/2001	-2.374%	1.179%	-0.359%	-2.024%	-1.369%	-1.941%	-1.170%	-4.604%	-0.094%	0.005%	27.1560	24.9458	31.6198	28.8891	29.1043	29.5839	23.4053	25.9007	34.3160	37.32558784
7/7/2001	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.005%	27.1560	24.9455	31.6198	28.8891	29.1043	29.5839	23.4053	25.9007	34.3180	37.32726764
7/8/2001	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.005%	27.1560	24.9455	31.6198	28.8891	29.1043	29.5839	23.4053	25.9007	34.3180	37.32894752
7/9/2001	0.711%	1.522%	-1.405%	0.321%	-0.554%	0.313%	0.910%	1.274%	0.913%	0.005%	27.3480	25.3255	31.1746	28.9817	28.9430	29.6764	23.6184	26.2307	34.6313	37.33062747
7/10/2001	-0.446%	-0.910%	0.133%	-2.415%	0.000%	-1.523%	-1.083%	-3.050%	0.150%	0.005%	27.2201	25.1202	31.2100	28.2019	28.9430	29.2243	23.3627	25.4307	34.6803	37.3323075
7/11/2001	1.092%	-0.501%	-1.327%	-0.182%	-0.070%	-1.070%	0.319%	0.511%	0.467%	0.005%	27.5207	24.5666	30.8019	28.2304	28.9228	28.9264	23.4373	25.5607	34.8474	37.33398761
7/12/2001	4.319%	0.618%	-0.134%	1.750%	0.976%	2.416%	2.126%	6.851%	-1.023%	0.005%	28.7004	24.8329	30.7605	28.7244	29.2051	29.6250	23.9380	27.2107	34.4903	37.33566779
7/13/2001	1.626%	1.744%	0.370%	1.182%	0.600%	0.798%	0.039%	0.293%	-0.251%	0.005%	29.1767	25.0176	30.8744	29.0640	29.4087	29.8613	23.9593	27.3407	34.4045	37.33734805
7/14/2001	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.005%	29.1767	25.0176	30.8744	29.0640	29.4087	29.8613	23.9593	27.3407	34.4045	37.33902635
7/15/2001	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.005%	29.1767	25.0176	30.8744	29.0040	29.4067	29.8613	23.9593	27.3407	34.4046	37.34070879
7/16/2001	0.275%	-0.738%	-1.040%	-1.416%	-0.460%	-1.606%	-1.501%	-2.414%	0.691%	0.005%	29.2580	24.8329	30.3671	28.6524	29.2656	29.3579	23.5755	26.6807	34.6421	37.34238927
7/17/2001	0.556%	1.488%	-0.443%	2.047%	0.683%	2.030%	-0.407%	1.193%	0.156%	0.005%	29.4205	25.2023	30.2325	29.2390	29.4672	29.9538	23.4799	27.3007	34.0961	37.34406983
7/18/2001	0.069%	2.440%	-1.032%	-0.563%	-0.902%	0.309%	2.450%	-3.815%	-1.027%	0.005%	29.4409	25.5206	29.9115	29.0743	29.1748	30.0482	24.0552	25.9707	34.3356	37.34575048
7/19/2001	0.090%	-1.102%	1.035%	-0.673%	-0.587%	-0.274%	0.221%	1.848%	0.629%	0.005%	29.6440	25.6743	30.2221	28.8768	29.0205	29.9641	24.1084	26.4507	34.5567	37.34743117
7/20/2001	0.103%	1.369%	2.124%	-0.453%	0.243%	0.514%	-0.663%	-0.507%	-2.094%	0.005%	29.6745	26.0232	30.8640	28.7450	29.0740	30.1162	23.9486	26.3007	33.8319	37.34911195
7/21/2001	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.005%	29.6745	26.0232	30.8640	28.7450	29.0740	30.1162	23.9486	26.3007	33.8319	37.35079282
7/22/2001	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.005%	29.6745	26.0232	30.8640	28.7450	29.0740	30.1162	23.9455	26.3007	33.8319	37.35247376
7/23/2001	-1.540%	2.126%	-1.141%	-0.537%	-1.942%	-1.092%	-1.957%	-2.433%	-2.714%	0.005%	29.1259	25.4178	30.5120	28.5206	28.5035	29.7694	23.4799	25.6807	32.9137	37.35415477
7/24/2001	-1.420%	-3.757%	-2.963%	-1.296%	-0.400%	-2.056%	-2.995%	-1.225%	-2.855%	0.005%	28.7064	25.3228	29.4249	28.2201	28.3785	28.9983	22.7767	25.3207	31.9739	37.35583586
7/25/2001	1.546%	-0.702%	4.509%	0.766%	0.568%	0.673%	2.105%	2.133%	4.392%	0.005%	29.2681	25.4075	30.7612	29.4363	28.5358	29.1935	23.2561	28.8607	33.3752	37.35751702
7/26/2001	0.104%	3.040%	2.018%	0.796%	2.932%	0.985%	-0.550%	1.895%	0.356%	0.005%	29.2305	25.4178	31.4024	28.0527	29.3764	29.4812	23.1263	28.3507	33.4971	37.35919826
7/27/2001	-0.277%	0.000%	0.462%	0.574%	0.137%	0.041%	0.276%	-0.152%	-0.005%	0.005%	29.2174	25.4178	31.5473	28.8273	29.4168	29.7586	23.1922	28.3107	33.4755	37.36087958
7/28/2001	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.005%	29.2174	25.4178	31.5473	28.8273	29.4168	29.7586	23.1922	28.3107	33.4755	37.36256097
7/29/2001	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.005%	29.2174	25.4178	31.5473	28.8273	29.4168	29.7586	23.1922	28.3107	33.4755	37.36424243
7/30/2001	0.641%	1.251%	3.953%	-0.321%	0.000%	-3.207%	-0.689%	-0.304%	1.129%	0.005%	29.4164	25.7359	31.5784	28.7347	29.4168	29.6969	23.0324	28.2307	33.8535	37.36592398
7/31/2001	0.035%	-0.192%	-1.147%	1.111%	-3.720%	0.000%	2.220%	-0.038%	-0.798%	0.005%	29.4205	25.7872	31.2160	29.0540	29.2051	29.6869	23.5435	28.2207	33.5835	37.36760559
8/1/2001	-0.104%	0.000%	-0.367%	0.427%	-0.104%	0.555%	-0.455%	2.670%	1.106%	0.005%	29.3900	25.7872	31.1016	29.1779	29.1748	29.8617	23.4366	26.9207	33.9751	37.36928729
8/2/2001	0.024%	-0.599%	-0.067%	-0.142%	1.037%	0.138%	-0.685%	1.374%	-0.100%	0.005%	29.5732	25.6326	31.0808	29.1366	29.4774	29.9029	23.2763	27.2907	33.9207	37.37096903
8/3/2001	-0.654%	0.723%	-1.507%	0.425%	-0.821%	0.402%	-0.230%	-1.429%	-0.289%	0.005%	29.3799	25.8181	30.6125	29.2005	29.2353	30.0470	23.2227	26.9007	33.8226	37.3726509
8/4/2001	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.005%	29.3798	25.8181	30.6125	29.2605	29.2353	30.0470	23.2227	26.9007	33.8226	37.37433282
8/5/2001	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.005%	29.3798	25.8181	30.6125	29.2605	29.2353	30.0470	23.2227	26.9007	33.8226	37.37601482
8/6/2001	-1.832%	-4.618%	-0.136%	-1.447%	-0.655%	-2.159%	0.138%	-1.227%	-1.930%	0.005%	28.8505	25.6843	30.5709	28.8371	29.0437	29.3983	23.2549	26.5707	33.1701	37.37769689
8/7/2001	1.129%	0.200%	0.000%	1.075%	0.276%	0.736%	-0.736%	-0.565%	0.787%	0.005%	29.1762	25.7357	30.5709	29.1469	29.1244	29.6146	23.0836	26.4207	33.4312	37.37937904
8/8/2001	-1.260%	-0.490%	-2.042%	-2.020%	-0.693%	-0.904%	-0.881%	-3.217%	-1.985%	0.005%	28.8097	25.6328	29.9466	28.5032	28.9227	29.3468	22.8903	25.5707	32.7870	37.38106126
8/9/2001	-0.353%	0.321%	0.591%	0.470%	-0.453%	0.035%	-0.885%	0.039%	0.166%	0.005%	28.7079	25.7152	30.1735	28.6925	28.7916	29.3571	22.6770	25.5507	32.8219	37.38274356
8/10/2001	-0.071%	0.350%	0.104%	0.072%	0.175%	1.899%	2.548%	-0.150%	1.056%	0.005%	28.6876	25.8078	30.1547	28.7131	28.8420	29.9029	23.2549	25.5407	33.4638	37.38442594
8/11/2001	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.000%	0.005%	28.6876	25.8078	30.1547	28.7131	28.8420	29.9029	23.2549	25.5407	33.4638	37.38610839

OS Received 03/16/2023

0	0	50493	47833	0	0	0	50485	51802	50505	0	0	251,118.46
0	0	51670	48491	0	0	0	51543	53568	51495	0	0	256,767.40
0	0	51629	48930	0	0	0	51587	54000	51188	0	0	257,333.60
0	0	51629	48930	0	0	0	51587	54000	51188	0	0	257,333.60
0	0	51629	48930	0	0	0	51587	54000	51188	0	0	257,333.60
0	0	43390	41984	0	42733	0	43237	44506	42510	0	0	258,358.91
0	0	43251	42035	0	42632	0	43200	44135	42596	0	0	257,849.53
0	0	43026	42259	0	42632	0	42998	43208	42553	0	0	256,675.84
0	0	43701	42207	0	43614	0	43696	44521	42769	0	0	260,508.17
0	0	43701	42121	0	44054	0	43861	44985	42618	0	0	261,339.74
0	0	43701	42121	0	44054	0	43861	44985	42618	0	0	261,339.81
0	0	43701	42121	0	44054	0	43861	44985	42618	0	0	261,339.81
0	0	29766	28861	29244	30977	29002	30068	30251	29327	28508	0	266,003.19
0	0	29893	28908	29194	31604	29074	30289	30141	29239	28088	0	266,429.79
0	0	29639	28720	28901	32696	28660	30043	30382	28974	27893	0	265,907.53
0	0	29616	28426	28664	32463	28453	30203	30131	28769	27942	0	264,667.44
0	0	30585	28544	28630	33323	28578	30955	30311	29062	28205	0	268,193.34
0	0	30585	28544	28630	33323	28578	30955	30311	29062	28205	0	268,193.34
0	0	30585	28544	28630	33323	28578	30955	30311	29062	28205	0	268,193.34
0	0	30308	28567	28754	33183	28805	30659	29910	28930	28264	0	267,381.25
0	0	29985	28567	28338	31952	28764	30252	29840	28519	28283	0	264,500.59
0	0	30204	28555	28642	32603	28919	30782	30111	29092	28420	0	267,327.68
0	0	30285	28720	28991	33276	28888	30918	30663	29224	28322	0	269,286.69
0	0	29870	28685	28563	33067	28888	30474	29890	28945	28322	0	266,703.64
0	0	29870	28685	28563	33067	28888	30474	29890	28945	28322	0	266,703.64
0	0	29870	28685	28563	33067	28888	30474	29890	28945	28322	0	266,703.64
0	0	28923	28391	27639	31674	28774	29575	28756	28255	27932	0	259,918.86
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0	0	30377	29084	29487	33787	29664	31177	30412	29503	28985	0	272,475.88
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0	0	30158	29096	29864	33527	29870	31238	30171	29415	29034	0	272,373.97
0	0	30470	29143	29408	33950	29870	31411	30020	29488	28849	0	272,609.14
0	0	30643	29237	29543	33857	29881	31090	29910	29621	28820	0	272,601.12
0	0	30701	29237	29453	34205	29870	31374	30121	29679	28820	0	273,459.55
0	0	30712	29120	29391	34251	29653	31201	30311	29782	28751	0	273,173.46
0	0	30712	29120	29391	34251	29653	31201	30311	29782	28751	0	273,173.46
0	0	30712	29120	29391	34251	29653	31201	30311	29782	28751	0	273,173.46
0	0	30193	29178	28822	34135	29602	30832	29910	29400	28508	0	270,579.48
0	0	29650	28908	28321	32301	29126	30314	29027	28798	28283	0	264,728.16
0	0	29500	28932	28112	32022	29188	30191	29298	28857	28088	0	264,187.99
0	0	29812	28990	28309	32649	29053	30585	29719	28989	28069	0	266,176.43
0	0	30354	29202	28704	33021	29467	31189	30131	29503	28205	0	269,775.75
0	0	30354	29202	28704	33021	29467	31189	30131	29503	28205	0	269,775.75
0	0	30354	29202	28704	33021	29467	31189	30131	29503	28205	0	269,775.75
0	0	30354	29202	28704	33021	29467	31189	30131	29503	28205	0	269,775.75
0	0	30620	29449	29492	33163	29333	31460	30542	29723	28273	0	272,055.10
0	0	30943	29437	29560	33671	29674	31990	30683	29944	28234	0	274,135.35
0	0	31358	29649	30072	33950	29901	32261	30853	30355	28234	0	276,634.11
0	0	31255	29778	30191	33741	29912	32471	30893	30384	28225	0	276,848.44
0	0	31255	29778	30191	33741	29912	32471	30893	30384	28225	0	276,848.44
0	0	31255	29778	30191	33741	29912	32471	30893	30384	28225	0	276,848.44
0	0	31358	29707	30416	34182	30026	32779	31285	30281	28634	0	278,668.23
0	0	31508	29555	30720	34251	29757	33173	31977	30487	28849	0	280,277.16
0	0	32109	29790	31481	35436	30026	33592	32418	30722	29307	0	284,879.84
0	0	32074	29684	31328	35320	30005	33654	32268	30604	29112	0	284,049.12
0	0	32190	30070	31219	35266	29878	33461	32251	30791	29244	0	284,369.96
0	0	32190	30070	31219	35266	29878	33461	32251	30791	29244	0	284,369.96
0	0	32190	30070	31219	35266	29878	33461	32251	30791	29244	0	284,369.96
0	0	32063	29976	30955	34941	30167	33264	31930	30658	29108	0	283,061.79
0	0	32190	30035	31439	35731	30074	33658	32281	30820	29030	0	285,257.39
0	0	31728	30035	30786	35011	29650	33375	31769	30820	28932	0	282,105.75
0	0	31428	29882	30346	34314	29619	32833	31077	30526	28654	0	278,879.59
0	0	31243	29882	30307	33989	29640	32377	30776	30335	28776	0	277,325.20
0	0	31243	29882	30307	33989	29640	32377	30776	30335	28776	0	277,325.20
0	0	31243	29882	30307	33989	29640	32377	30776	30335	28776	0	277,325.20
0	0	35177	35429	35079	35425	35657	35123	34586	0	35295	0	281,771.92
0	0	35343	35595	34983	35261	35707	35045	34620	0	35366	0	281,919.50
0	0	35152	35665	34758	35097	35448	34691	34387	0	35153	0	280,351.39

EXHIBIT 26

OS Received 03/16/2023

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

Securities and Exchange Commission,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. 17-CV-11633-DJC
	)	
Navellier & Associates, Inc. and Louis Navellier,	)	
	)	
Defendants.	)	

VIDEO DEPOSITION OF LOUIS G. NAVELLIER
Thursday, November 8, 2018
Securities and Exchange Commission
Boston District Office
33 Arch Street - 24th Floor
Boston, Massachusetts 02110

Reported by:
J. Edward Varallo, RMR, CRR
Registered Professional Reporter
JOB No. 181108VG

A. Yes, apparently.
Q. And they were marketed under the Vireo name. Correct?
A. Yes, sir.
Q. And Vireo was part of Navellier & Associates?
A. Yes, sir.
Q. And Navellier's name appeared on the -- Navellier's name appeared on the Vireo materials?
A. It might have in the disclosure, but I told them I didn't want my name on this product, these products, and everything was removed.
Q. Right. In fact, at a certain time you told them to take your name off the material. Right?
A. Yes.
Q. Which implies that your name was on it before that time. Right?
A. Probably. I don't know, Marc. I actually don't know.
Q. All right, we'll see some documents. Hopefully we can clear that up.
Mr. Navellier, you testified with the SEC once before in this matter. Correct?
A. Yes.

A. Yeah, we used to, yeah.
Q. Okay. And this email is you forwarding along marketing materials for the Vireo products?
A. Correct.
Q. Why were you doing that?
A. Because we wanted to sell it at that time, dispose of the assets.
Q. So you wanted to sell Vireo to Forward Management?
A. Correct.
Q. And did you think that Mr. Cusack would be involved in buying Vireo from you?
A. Yes.
Q. And why did you want to sell it?
A. Because I didn't like Howard Present; I didn't like what he was doing to my brand. I concluded he was an index manager and I'm an active manager and I don't want to sell index products. It muddles the message, so I wanted out.
Q. And you say in the third paragraph "If you like what you see with Vireo, website, and would like to explore packing our ETF management for broader wire house distribution in an alliance like you did for Chris, we would like to meet with you and explore how we might be able to help each

OS Received 03/16/2023

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

Securities and Exchange)
Commission,)
)
Plaintiff,)
)
v.) C.A. 17-CV-11633-DJC
)
Navellier & Associates, Inc.)
and Louis Navellier,)
)
Defendants.)
____________________________)

VIDEO DEPOSITION OF LOUIS G. NAVELLIER
Thursday, November 8, 2018
Securities and Exchange Commission
Boston District Office
33 Arch Street - 24th Floor
Boston, Massachusetts 02110

Reported by:
J. Edward Varallo, RMR, CRR
Registered Professional Reporter
JOB No. 181108VG

Q. Well, each one of these invitations says that you are going to speak about investment topics, current market outlook, and Vireo. Correct?
A. No, I never sold Vireo.
Q. Sir, I'm asking you about what the document says.
MR. KORNHAUSER: Objection. The document -- Objection. The document speaks for itself. Okay?
MR. JONES: Right.
A. Let me be very clear. I never sold Vireo --
Q. Wait, sir. There's no question pending. Let me ask you the question.
MR. KORNHAUSER: Well, actually there is, but go ahead.
BY MR. JONES:
Q. So the dates of these documents run from February 22, 2011, March 16, 2011, September 7, 2011, May 5, 2011, September 8, 2011, September 13, 2011. Is that correct?
A. Yes, sir.
Q. And on each of those six pages, you're inviting a group of brokers to meet with you. Correct?

A. Yes, apparently.
Q. And they were marketed under the Vireo name. Correct?
A. Yes, sir.
Q. And Vireo was part of Navellier & Associates?
A. Yes, sir.
Q. And Navellier's name appeared on the -- Navellier's name appeared on the Vireo materials?
A. It might have in the disclosure, but I told them I didn't want my name on this product, these products, and everything was removed.
Q. Right. In fact, at a certain time you told them to take your name off the material. Right?
A. Yes.
Q. Which implies that your name was on it before that time. Right?
A. Probably. I don't know, Marc. I actually don't know.
Q. All right, we'll see some documents. Hopefully we can clear that up.
Mr. Navellier, you testified with the SEC once before in this matter. Correct?
A. Yes.

EXHIBIT 27

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

Securities and Exchange Commission,)
)
Plaintiff,)
)
v.) C.A. 17-CV-11633-DJC
)
Navellier & Associates, Inc. and Louis Navellier,)
)
Defendants.)

VIDEO DEPOSITION OF LOUIS G. NAVELLIER
Thursday, November 8, 2018
Securities and Exchange Commission
Boston District Office
33 Arch Street - 24th Floor
Boston, Massachusetts 02110

Reported by:
J. Edward Varallo, RMR, CRR
Registered Professional Reporter
JOB No. 181108VG

if we can get comfortable with F2 numbers, and/or improve disclosures." Correct?

A. Yes.

Q. So that's also what he's telling you in relation to your made-up email about trade confirms?

A. Yes, sir.

Q. And you respond to that, correct, in the middle of the page later that day?

A. Yes.

Q. And you say "We just have to cover our ass somehow." Correct?

A. Yes, sir.

Q. What did you mean by "cover our ass somehow"?

A. That's just again me being political.

Q. What did you mean by the sentence?

MR. KORNHAUSER: Objection, asked and answered.

MR. JONES: No, it wasn't answered.

BY MR. KORNHAUSER:

Q. What did you mean by the sentence?

MR. KORNHAUSER: Yes, he did. He said it was just him being political.

A. Marc, this is very simple. Everything I said was made up about criticizing F2 and Howard

Present. I hated the man, I despised the man; I didn't want to sell an index product; I was jealous that he was stealing accounts from me. Obviously, the accounts were lower margin; they weren't profitable. I didn't want to be affiliated with this guy. I just made up crap to get rid of him. I was a political operative. Okay? Internally, in my own firm, I was a jerk. Okay? And I was doing my best to be a jerk and intimidate the crap out of everybody.

You're not going to get an email from me criticizing Howard where I didn't make up crap. Okay? Now, look, I say "made up." I made up the SEC, I made up the California Department of Corporations. It was just me going off to intimidate people.

Q. So the SEC part is the part of your email that says "The SEC is going to love this, though." Correct? Is that what you're referring to?

A. Yes, that's what it says, yes.

Q. And you turned out to be right about that. Correct?

MR. KORNHAUSER: Objection.

A. Well, I guess so, heh heh.

EXHIBIT 28

OS Received 03/16/2023

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

Securities and Exchange Commission,	)	
Plaintiff,	)	
v.	)	C.A. 17-CV-11633-DJC
Navellier & Associates, Inc. and Louis Navellier,	)	
Defendants.	)	

VIDEO DEPOSITION OF LOUIS G. NAVELLIER
Thursday, November 8, 2018
Securities and Exchange Commission
Boston District Office
33 Arch Street - 24th Floor
Boston, Massachusetts 02110

Reported by:
J. Edward Varallo, RMR, CRR
Registered Professional Reporter
JOB No. 181108VG

Q. And that's a fair and accurate representation of how you looked at the time?
A. This is my mortuary picture, sir. This is way too much make-up, yeah.
Q. But it is you?
A. It's what I'll look like in the box, yeah, yeah.
Q. Okay. Well, I hope that doesn't happen to you soon, sir. I hope we don't get to test that anytime soon.
And this lists you as the CEO/CIO of Navellier. Correct?
A. Yes, sir.
Q. And this is an invitation to meet with you. Correct?
A. Yes.
Q. And each one of these invites essentially a different group of people to meet with you. Correct?
A. These are brokerage meetings, sir, these are not clients meetings.
Q. These are brokerage meetings? You would meet with brokers?
A. Mm-hmm.
Q. And I take it, what's the purpose of you

MR. KORNHAUSER: Are we done with this exhibit?

MR. JONES: We are done with this exhibit.

MR. KORNHAUSER: Okay. And that was 7?

MR. JONES: Correct.

BY MR. JONES:

Q. At those broker meetings, did the brokers ever ask about Vireo?

A. Yeah, John would explain it.

Q. You never answered any questions about Vireo from a broker?

A. No.

Q. Never ever?

A. Well --

MR. KORNHAUSER: Objection, overbroad.

A. Let me be very clear. Of course I've got to answer questions about it, but it wasn't my portfolio, wasn't under my supervision, so we would refer the questions back to Peter Knapp. And we had a lot of problems with answering questions and I became increasingly frustrated, and that's my comment. And I eventually learned to despise Howard Present.

Q. What were the problems that you had with

A. Because Virtus and AlphaDEX were handing out the F2 Morningstar --

MR. KORNHAUSER: He said AlphaDEX. Did you mean AlphaDEX or somebody else?

THE WITNESS: It was both.

MR. KORNHAUSER: All right.

BY MR. JONES:

Q. And so you closed Navellier client accounts based on that?

A. Yes, sir.

Q. And what notice did you give to those clients?

A. I said that's noncompliant material, you can't sell on that basis, we have to close the accounts.

Q. That sounds like something you would say to the broker. Is that right?

A. That's what I said to the broker, yes.

Q. What did you say to your clients?

A. We didn't. We weren't allowed to talk to our clients without broker permission.

Q. What did you send to your clients?

A. The brokers closed the accounts. There was nothing sent to the clients that I know of.

Q. So you shut down Navellier client

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

Securities and Exchange Commission,)
)
Plaintiff,)
)
v.) C.A. 17-CV-11633-DJC
)
Navellier & Associates, Inc. and Louis Navellier,)
)
Defendants.)

VIDEO DEPOSITION OF LOUIS G. NAVELLIER
Thursday, November 8, 2018
Securities and Exchange Commission
Boston District Office
33 Arch Street - 24th Floor
Boston, Massachusetts 02110

Reported by:
J. Edward Varallo, RMR, CRR
Registered Professional Reporter
JOB No. 181108VG

A. Mm-hmm, mm-hmm.
Q. In what way was Vireo a good idea?
A. Well, the brokers were -- Brokers were gravitating to ETFs, and so I wasn't anti-ETF, but we picked the wrong manager. And the fraud, I have no proof of any fraud.
Q. What was the manager that you picked?
MR. KORNHAUSER: You weren't finished. Finish your answer.
MR. JONES: I'm sorry. I didn't mean to cut you off if you have more.
A. I have no proof. It was a good idea to sell managed ETF products because that's what the financial advisers wanted, that's where all the wholesaling is, all the support is nowadays, and between BlackRock and First Trust they have kind of taken over the brokerage community. So it was a good idea to have managed portfolios, but in my opinion we picked the wrong manager.
The fraud, I have no evidence of fraud. That was just me belittling him. I have no evidence of fraud then or now.
Q. When you say picked the wrong manager, who's the manager you're referring to?
A. F2.

Q. And you were managing the Vireo products with F2?
A. Yes.
MR. KORNHAUSER: You? Objection, vague.
A. Navellier & Associates was in charge of Vireo.
Q. And so although you wrote "Continues to smell like fraud," you made that up?
A. Yeah. I have no evidence of fraud then or now.
Q. You thought it smelled great?
A. No, it didn't smell good. I was being a condescending jerk. Okay? Howard was basically a disrupter. He basically was stealing business from our growth accounts. We didn't like him. I wanted to do everything possible to undermine him, belittle him. I loved embarrassing him, and my favorite thing was closing accounts in the field to piss him off. I did that all the time.
MR. KORNHAUSER: How about answering his question? Okay? Why don't you try that for a change.
MR. JONES: I was fine with it.
BY MR. JONES:
Q. Can you tell me what accounts you closed

Q. How did you know whether they had received non-Navellier material?
A. Because they would ask me questions.
Q. They would ask you questions about what?
A. About the product, and I said how did you learn about it? And I found noncompliant material in the field, and I guess the accumulation was in Scottsdale. I closed four and a half million accounts in one day.
Q. When you say four and a half million accounts --
A. Dollars; four and a half million in accounts.
Q. Oh, in accounts?
A. In one day.
Q. And just to make sure we're on the same question, you mean 4-1/2 million dollars of accounts?
A. Yes.
Q. Not the number of accounts?
A. Yes.
Q. And that was in Scottsdale?
A. Scottsdale at the Wells Fargo office.
Q. A Wells Fargo office in Scottsdale?
A. Mm-hmm.

A. No.

Q. Mr. Navellier, are you aware of any notice sent to Navellier advisory clients between 2009 and the sale of the Vireo line of business in 2013 that put advisory clients or, rather, that told advisory clients that a Vireo AlphaSector product was back-tested?

MR. KORNHAUSER: Objection, overbroad, compound.

A. So help me out again. This is a Navellier-approved compliance piece?

Q. Yeah. I'm asking if -- Well, whether or not it's Navellier-approved, are you aware of any notice sent out by Navellier or its employees to Navellier advisory clients that would put those clients on notice or inform them that a Vireo AlphaSector product had been back-tested?

MR. KORNHAUSER: Objection, vague as to back-tested; speculation with regard to clients on notice.

A. I would hope the clients wouldn't get the broker-only material that we've discussed earlier, so I don't know of anything that went out. But I just don't know at this time.

Q. Earlier you talked about being in

Scottsdale, Arizona, and terminating client accounts.

A. Yes, sir.

Q. Can you tell me any other instances in which you terminated client accounts?

A. Oh, yeah, I was having fights with First Trust all the time.

Q. And can you put any specifics on accounts that you terminated?

A. Well, most of the time First Trust was just stealing money from me, so I would go in and do a large cap growth presentation --

MR. KORNHAUSER: Listen to his question, Louie.

BY MR. JONES:

Q. I just want to know about you closing accounts.

A. No, there were other accounts that were closed.

Q. Can you give me any specifics about accounts that were closed other than the ones you mentioned in Scottsdale, Arizona?

A. We had a big run-in in Pontiac, Pontiac, Missouri, had a big fight with the First Trust wholesaler. I had a fight with the First Trust

wholesaler in south Florida.
Q. And you closed accounts as a result of both of those run-ins?
A. I discouraged accounts. I don't know if I closed but I definitely, we had a big fight. We had big fights.
Q. And by discouraged accounts, you essentially said we don't want to take new accounts?
A. I basically said don't use First Trust for the sales, use us for the sales.
Q. So you encouraged them to use Navellier instead of First Trust?
A. Correct.
Q. You didn't close any accounts in those run-ins?
A. I don't -- I don't remember. We had a lot of fights.
Q. Any other closing of accounts that you can remember?
A. I'm sure there were, because I was trying to torment Howard. The more I closed, the more I tormented Howard.
Q. Okay, I'm just asking if you remember any other examples of --
A. Not offhand. Scottsdale was the big

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one.

Q. Is there any record that would show that you had closed those accounts for that reason?

A. That'd be hard to trace.

Q. Would there be any client notification to those clients that their accounts had been closed?

A. No. The adviser would be closing them, yeah.

Q. Well, you were the adviser.

A. No, but I wasn't the -- Their financial adviser would have closed the accounts, not me.

Q. The people that you were in the dual contract with?

A. Yeah. We'd have to check the Wells Fargo email.

Q. You said we'd have to check the Wells Fargo email?

A. Mm-hmm.

Q. That was a "yes"?

A. Yes.

Q. So you're suggesting that somewhere in the Wells Fargo email there might be evidence of you closing accounts?

A. Yes, sir.

COURT REPORTER'S CERTIFICATE

I, J. Edward Varallo, RMR, CRR, Registered Professional Reporter and Notary Public in the Commonwealth of Massachusetts (my commission expires 12/09/2022), hereby certify that the deposition of Louis G. Navellier taken on November 8, 2018, in the above-captioned matter, was recorded by me stenographically and transcribed; that before being sworn by me, the deponent provided satisfactory identification as required by Executive Order 455 (03-13).

I certify that the deposition transcript produced by me is true and accurate to the best of my ability.

At the time of the deposition, review of the transcript was requested. Any changes made by the deponent and timely provided to the reporter are appended hereto.

I certify further that I am not counsel, attorney, or relative of any party, and have no interest, financial or otherwise, in the outcome of this suit.

[redacted]

DATED: 11/12/2018 J. Edward Varallo

EXHIBIT 29

OS Received 03/16/2023

[redacted]

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Navellier & Associates Inc.'s outgoing and incoming emails are electronically archived and may be subject to review and/or disclosure to someone other than the intended recipient.

EXHIBIT 30

From: Arjen Kuyper
Sent: Friday, September 14, 2012 2:22 PM
To: ALL Employees
Cc: Louis Navellier
Subject: Use of unapproved marketing materials

To: All Marketing/Sales Personnel

Re: Approved Vireo Marketing Materials

All, it has come to our attention that un-approved marketing materials may have been or is currently being used by Navellier Sales personnel to promote the Vireo Investment Strategies.

To be crystal clear about this issue:
Anyone found to be utilizing marketing materials that have not been approved by the Navellier Compliance Department will be subject to immediate termination. This includes F2 presentations, Morningstar Sheets for the F2 Indexes, F2 Fact Sheets, F2 Power Points or any older marketing materials. This also includes any references to websites that have not been approved for use by the Navellier Compliance Department.

Very simply: any hard copy, soft copy or websites or any representations used or made without the Navellier logo and without Navellier Compliance Department approval is unauthorized marketing materials and cannot be used. The use of any of the aforementioned will result in immediate termination.

If you have any questions about the use of any marketing materials and/or whether it is approved for use, please contact me directly regarding any marketing materials you are using or presenting in any of your marketing efforts. Please send copies of any materials that you are using if you have any doubts about the use of these materials.

Sincerely,

Arjen Kuyper
President

NAVELLIER
Calculated Investing

Navellier & Associates
1 East Liberty Street
Suite 504
Reno, NV 89501
800 365 8471 x 421 toll-free
775 785 9421, 775 562 8214 fax

EXHIBIT 31

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Marketing	Account N	Custodian	Management Style	Fee Type	Start Date	Start Amount	Current Amo	Current Amou	Broker Firs	Broker Last	Broker Cor	Broker State
Navellier	'N3X-0010(	Pershing	ADX	FIXCO	10/24/2011	$182,378	8/31/2013	$230,772	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0010'	Pershing	AWX	FIXCO	3/1/2012	$173,083	8/31/2013	$182,640	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0010!	Pershing	ADX	FIXCO	10/28/2011	$244,164	8/31/2013	$381,473	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0011(	Pershing	AWX	FIXCO	3/21/2012	$204,259	8/31/2013	$218,124	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0011:	Pershing	ADX	FIXCO	11/17/2011	$87,008	8/31/2013	$120,980	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0011:	Pershing	AWX	FIXCO	2/28/2013	$138,727	8/31/2013	$141,737	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0011	Pershing	ADX	FIXCO	2/7/2012	$188,391	8/31/2013	$205,512	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0011!	Pershing	AWX	FIXCO	11/21/2011	$325,083	8/31/2013	$372,165	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0011	Pershing	AWX	FIXCO	2/10/2012	$175,564	8/31/2013	$192,561	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0012:	Pershing	ADX	FIXCO	10/26/2011	$212,198	8/31/2013	$269,177	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0012:	Pershing	AWX	FIXCO	3/26/2012	$161,622	8/31/2013	$348,521	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0012	Pershing	ADX	FIXCO	12/21/2011	$110,682	8/31/2013	$132,023	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0012!	Pershing	AWX	FIXCO	3/27/2012	$126,226	8/31/2013	$134,136	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0012	Pershing	ADX	FIXCO	2/22/2012	$727,811	8/31/2013	$856,768	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0013(	Pershing	AWX	FIXCO	2/24/2012	$145,562	4/30/2013	$156,918	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0013:	Pershing	AWX	FIXCO	3/27/2012	$165,638	8/31/2013	$226,090	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0013:	Pershing	AWX	FIXCO	11/14/2011	$157,918	8/31/2013	$179,771	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0013	Pershing	AWX	FIXCO	2/28/2012	$112,239	8/31/2013	$119,620	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0013	Pershing	AWX	FIXCO	6/6/2012	$198,557	8/31/2013	$211,628	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0013:	Pershing	ADX	FIXCO	11/1/2011	$105,222	8/31/2013	$132,397	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0013	Pershing	ADX	FIXCO	2/10/2012	$106,231	8/31/2013	$124,227	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0014(	Pershing	AWX	FIXCO	2/22/2012	$153,583	8/31/2013	$121,591	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0014	Pershing	ADX	FIXCO	11/14/2011	$150,750	8/31/2013	$187,856	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0014	Pershing	ADX	FIXCO	11/26/2012	$114,632	8/31/2013	$139,978	Bruce	Patterson	Compass F	IN
Navellier	'N3X-0015:	Pershing	ADX	FIXCO	11/23/2011	$255,443	8/31/2013	$329,196	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0015:	Pershing	AWX	FIXCO	4/29/2013	$321,970	8/31/2013	$337,754	Bruce	Patterson	Compass F	IN
Navellier	'N3X-0015(	Pershing	ADX	FIXCO	11/7/2011	$134,304	8/31/2013	$169,178	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0015	Pershing	ADX	FIXCO	11/2/2011	$174,036	8/31/2013	$221,280	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0016:	Pershing	ADX	FIXCO	10/26/2011	$108,148	8/31/2013	$136,859	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0016!	Pershing	AWX	FIXCO	5/11/2012	$238,486	7/31/2013	$265,993	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0016	Pershing	ADX	FIXCO	10/26/2011	$1,000,018	8/31/2013	$7,243,507	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0016!	Pershing	ADX	FIXCO	10/25/2011	$100,000	8/31/2013	$228,890	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0017(	Pershing	ADX	FIXCO	11/16/2011	$100,000	8/31/2013	$125,341	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0017:	Pershing	ADX	FIXCO	11/29/2011	$91,754	8/31/2013	$106,284	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0017:	Pershing	ADX	FIXCO	11/25/2011	$109,727	8/31/2013	$142,987	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0017	Pershing	ADX	FIXCO	12/5/2011	$100,000	8/31/2013	$121,562	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0017!	Pershing	ADX	FIXCO	12/13/2011	$230,265	8/31/2013	$288,282	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0017:	Pershing	ADX	FIXCO	12/15/2011	$100,000	8/31/2013	$129,858	Bruce	Patterson	Compass F	IN
Navellier	'N3X-0017	Pershing	ADX	FIXCO	12/29/2011	$47,994	8/31/2013	$169,263	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0017!	Pershing	ADX	FIXCO	12/13/2011	$40,576	8/31/2013	$50,171	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0018(	Pershing	ADX	FIXCO	2/2/2012	$125,000	8/31/2013	$147,971	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0018:	Pershing	AWX	FIXCO	8/12/2013	$211,777	8/31/2013	$205,800	Bruce	Patterson	Compass F	IN
Navellier	'N3X-0018:	Pershing	ADX	FIXCO	1/3/2012	$103,240	8/31/2013	$140,782	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0018	Pershing	ADX	FIXCO	2/1/2012	$46,323	8/31/2013	$53,617	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0018	Pershing	ADX	FIXCO	3/14/2012	$262,876	8/31/2013	$288,459	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0018:	Pershing	ADX	FIXCO	3/22/2012	$56,619	8/31/2013	$71,873	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0018	Pershing	AWX	FIXCO	2/28/2012	$73,687	8/31/2013	$214,605	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0018!	Pershing	ADX	FIXCO	2/9/2012	$30,048	8/31/2013	$46,635	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0019:	Pershing	AWX	FIXCO	3/1/2012	$108,484	8/31/2013	$101,482	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0019:	Pershing	ADX	FIXCO	2/28/2012	$200,000	8/31/2013	$234,351	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0019:	Pershing	ADX	FIXCO	5/2/2012	$47,858	8/31/2013	$61,745	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0019	Pershing	AWX	FIXCO	3/22/2012	$57,827	8/31/2013	$61,261	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0019!	Pershing	AWX	FIXCO	3/20/2012	$91,759	8/31/2013	$97,833	Bruce	Patterson	Compass F	IN
Navellier	'N3X-0019:	Pershing	ADX	FIXCO	3/19/2012	$58,472	8/31/2013	$66,778	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0019	Pershing	AWX	FIXCO	4/3/2012	$94,029	8/31/2013	$99,574	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0019!	Pershing	AWX	FIXCO	4/3/2012	$130,488	8/31/2013	$139,401	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0020(	Pershing	AWX	FIXCO	4/30/2012	$82,769	8/31/2013	$88,102	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0020:	Pershing	AWX	FIXCO	4/19/2012	$103,900	8/31/2013	$121,996	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0020!	Pershing	AWX	FIXCO	5/31/2012	$91,928	8/31/2013	$105,777	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0020:	Pershing	ADX	FIXCO	4/11/2012	$102,022	8/31/2013	$121,587	Gerald	Lencke	Compass F	IN
Navellier	'N3X00209	Pershing	ADX	FIXCO	4/9/2012	$47,218	8/31/2013	$55,037	Gerald	Lencke	Compass F	IN
Navellier	'N3x-0021(	Pershing	AWX	FIXCO	5/7/2012	$125,000	8/31/2013	$301,373	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0021:	Pershing	AWX	FIXCO	5/25/2012	$93,929	8/31/2013	$125,354	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0021:	Pershing	AWX	FIXCO	4/19/2012	$103,114	8/31/2013	$111,314	Bruce	Patterson	Compass F	IN
Navellier	'N3X-0021:	Pershing	ADX	FIXCO	5/14/2012	$111,422	8/31/2013	$147,071	Bruce	Patterson	Compass F	IN
Navellier	'N3X-0021	Pershing	ADX	FIXCO	4/19/2012	$41,036	8/31/2013	$47,397	Bruce	Patterson	Compass F	IN
Navellier	'N3X-0021	Pershing	AWX	FIXCO	4/24/2012	$323,649	8/31/2013	$242,612	Bruce	Patterson	Compass F	IN
Navellier	'N3X-0021!	Pershing	ADX	FIXCO	4/24/2012	$116,461	8/31/2013	$38,112	Bruce	Patterson	Compass F	IN
Navellier	'N3X-0022:	Pershing	AWX	FIXCO	5/4/2012	$89,419	8/31/2013	$103,881	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0022:	Pershing	ADX	FIXCO	5/14/2012	$83,806	8/31/2013	$101,536	Bruce	Patterson	Compass F	IN
Navellier	'N3X-0022	Pershing	AWX	FIXCO	7/27/2012	$121,536	8/31/2013	$113,210	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0022(	Pershing	AWX	FIXCO	7/5/2012	$85,355	8/31/2013	$94,567	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0022:	Pershing	AWX	FIXCO	7/17/2012	$200,000	8/31/2013	$406,206	Gerald	Lencke	Compass F	IN

Navellier	'N3X-0023:	Pershing	ADX	FIXCO	9/6/2012	$100,000	8/31/2013	$116,570	Bruce	Patterson	Compass F	IN
Navellier	'N3X-0023'	Pershing	AWX	FIXCO	11/14/2012	$68,462	8/31/2013	$75,568	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0023!	Pershing	AWX	FIXCO	11/29/2012	$221,679	8/31/2013	$237,817	Gerald	Lencke	Compass F	IN
Navellier	'EMM-002	Pershing	AWP	FIXCO	3/21/2011	$100,000	8/31/2013	$110,191	Russell	Hart	Benjamin E	IL
Navellier	'N3X-0024:	Pershing	ADX	FIXCO	11/29/2012	$73,810	8/31/2013	$87,536	Bruce	Patterson	Compass F	IN
Navellier	'N3X-0024:	Pershing	ADX	FIXCO	12/20/2012	$84,497	8/31/2013	$97,134	Bruce	Patterson	Compass F	IN
Navellier	'N3X-0024	Pershing	ADX	FIXCO	12/26/2012	$360,429	8/31/2013	$426,031	Bruce	Patterson	Compass F	IN
Navellier	'N3X-0024!	Pershing	ADX	FIXCO	12/12/2012	$64,517	8/31/2013	$74,794	Bruce	Patterson	Compass F	IN
Navellier	'N3X-0024(	Pershing	ADX	FIXCO	12/12/2012	$52,974	8/31/2013	$61,285	Bruce	Patterson	Compass F	IN
Navellier	'N3X-0025(	Pershing	AWX	FIXCO	1/9/2013	$65,000	8/31/2013	$86,140	Jason	Souder	Compass F	IN
Navellier	'N3X-0025:	Pershing	ADX	FIXCO	8/14/2012	$410,820	8/31/2013	$510,018	Gerald	Lencke	Compass F	IN
Navellier	'EMM-002!	Pershing	AWP	FIXCO	4/26/2011	$280,638	8/31/2013	$240,800	David	Hanson	Benjamin E	IL
Navellier	'N3X-0025	Pershing	ADX	FIXCO	1/10/2013	$100,000	8/31/2013	$112,853	William	Dick	Compass F	IN
Navellier	'EMM-002!	Pershing	AWP	FIXCO	5/31/2011	$272,019	8/31/2013	$288,885	David	Hanson	Benjamin E	IL
Navellier	'0AP-0025!	Pershing	AGP	FIXCO_FIXI	12/10/2009	$244,241	8/31/2013	$304,757	John	Rafal	Essex Finai	CT
Navellier	'N3X-0025!	Pershing	ADX	FIXCO	2/21/2013	$175,310	8/31/2013	$181,457	Al	Rosebush	Compass F	IN
Navellier	'N3X-0026:	Pershing	ADX	FIXCO	2/19/2013	$103,063	8/31/2013	$110,159	Al	Rosebush	Compass F	IN
Navellier	'N3X-0026	Pershing	ADX	FIXCO	3/14/2013	$79,487	8/31/2013	$70,049	Gerald	Lencke	Compass F	IN
Navellier	'EMM-002	Pershing	AWP	FIXCO	8/2/2011	$100,000	8/31/2013	$110,052	David	Hanson	Benjamin E	IL
Navellier	'EMM-002	Pershing	AWP	FIXCO	7/19/2011	$93,606	8/31/2013	$104,263	David	Hanson	Benjamin E	IL
Navellier	'EMM-002	Pershing	AWP	FIXCO	7/21/2011	$100,000	8/31/2013	$106,198	David	Hanson	Benjamin E	IL
Navellier	'N3X-0027(	Pershing	ADX	FIXCO	3/25/2013	$60,603	8/31/2013	$63,708	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0027:	Pershing	AWX	FIXCO	3/25/2013	$35,533	8/31/2013	$35,677	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0027:	Pershing	ADX	FIXCO	4/2/2013	$23,016	8/31/2013	$23,921	Gerald	Lencke	Compass F	IN
Navellier	'EMM-002'	Pershing	AWP	FIXCO	8/8/2011	$100,000	8/31/2013	$119,230	David	Hanson	Benjamin E	IL
Navellier	'N3X-0027	Pershing	ADX	FIXCO	4/18/2013	$38,486	8/31/2013	$41,126	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0027!	Pershing	ADX	FIXCO	4/5/2013	$29,579	8/31/2013	$31,433	Gerald	Lencke	Compass F	IN
Navellier	'EMM-002'	Pershing	AWP	FIXCO	8/30/2011	$102,000	8/31/2013	$116,921	David	Hanson	Benjamin E	IL
Navellier	'N3X-0028:	Pershing	ADX	FIXCO	6/3/2013	$93,307	8/31/2013	$95,123	Bruce	Patterson	Compass F	IN
Navellier	'N3X-0028	Pershing	AWX	FIXCO	4/30/2013	$84,956	8/31/2013	$84,078	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0028!	Pershing	ADX	FIXCO	6/3/2013	$76,261	8/31/2013	$77,719	Bruce	Patterson	Compass F	IN
Navellier	'N3X-0028	Pershing	AWX	FIXCO	5/1/2013	$33,715	8/31/2013	$33,323	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0028'	Pershing	ADX	FIXCO	5/1/2013	$22,829	8/31/2013	$23,644	Gerald	Lencke	Compass F	IN
Navellier	'EMM-002:	Pershing	AGX	FIXCO	11/21/2011	$188,614	8/31/2013	$217,437	David	Hanson	Benjamin E	IL
Navellier	'EMM-002:	Pershing	ADX	FIXCO	9/30/2011	$105,147	8/31/2013	$182,286	David	Hanson	Benjamin E	IL
Navellier	'N3X-0029:	Pershing	AWX	FIXCO	5/9/2013	$439,597	8/31/2013	$506,906	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0029:	Pershing	ADX	FIXCO	5/7/2013	$27,316	8/31/2013	$27,706	Gerald	Lencke	Compass F	IN
Navellier	'EMM-002!	Pershing	AWP	FIXCO	10/12/2011	$327,995	8/31/2013	$387,755	David	Hanson	Benjamin E	IL
Navellier	'N3X-0029!	Pershing	AWX	FIXCO	5/13/2013	$33,908	8/31/2013	$33,125	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0029'	Pershing	ADX	FIXCO	5/20/2013	$28,775	8/31/2013	$28,419	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0029	Pershing	AWX	FIXCO	6/10/2013	$19,849	8/31/2013	$19,690	Gerald	Lencke	Compass F	IN
Navellier	'EMM-002!	Pershing	AGX	FIXCO	11/21/2011	$100,010	8/31/2013	$121,961	David	Hanson	Benjamin E	IL
Navellier	'EMM-003	Pershing	AWP	FIXCO	10/28/2011	$347,375	8/31/2013	$394,568	David	Hanson	Benjamin E	IL
Navellier	'N3X-0030:	Pershing	ADX	FIXCO	4/2/2013	$50,159	8/31/2013	$50,320	Bruce	Patterson	Compass F	IN
Navellier	'N3X-0030	Pershing	ADX	FIXCO	6/10/2013	$67,192	8/31/2013	$67,800	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0030!	Pershing	AWX	FIXCO	6/10/2013	$24,203	7/31/2013	$24,787	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0030	Pershing	ADX	FIXCO	6/7/2013	$65,351	8/31/2013	$66,553	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0031:	Pershing	AWX	FIXCO	6/25/2013	$137,325	8/31/2013	$137,904	Gerald	Lencke	Compass F	IN
Navellier	'EMM-003:	Pershing	AGX	FIXCO	11/25/2011	$1,061,334	8/31/2013	$1,311,288	David	Hanson	Benjamin E	IL
Navellier	'N3X-0031	Pershing	ADX	FIXCO	7/16/2013	$73,636	8/31/2013	$61,863	Gerald	Lencke	Compass F	IN
Navellier	'EMM-003:	Pershing	AGX	FIXCO	11/30/2011	$345,723	8/31/2013	$425,433	David	Hanson	Benjamin E	IL
Navellier	'N3X-0031(	Pershing	AWX	FIXCO	7/22/2013	$111,835	8/31/2013	$109,257	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0031'	Pershing	AWX	FIXCO	9/11/2013	$110,473	9/11/2013	$110,473	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0031(	Pershing	ADX	FIXCO	8/5/2013	$69,835	8/31/2013	$66,841	Gerald	Lencke	Compass F	IN
Navellier	'EMM-003:	Pershing	AWP	FIXCO	1/20/2012	$275,000	8/31/2013	$286,649	David	Hanson	Benjamin E	IL
Navellier	'EMM-003:	Pershing	AWX	FIXCO	2/3/2012	$103,063	8/31/2013	$111,940	David	Hanson	Benjamin E	IL
Navellier	'EMM-003:	Pershing	AWP	FIXCO	2/2/2012	$1,000,000	8/31/2013	$1,094,627	David	Hanson	Benjamin E	IL
Navellier	'N3X-0032:	Pershing	AWP	FIXCO	8/13/2013	$101,698	8/31/2013	$99,005	Bruce	Patterson	Compass F	IN
Navellier	'N3X-0032!	Pershing	AWX	FIXCO	8/20/2013	$139,162	8/31/2013	$137,718	Gerald	Lencke	Compass F	IN
Navellier	'EMM-003:	Pershing	AWP	FIXCO	2/29/2012	$234,256	8/31/2013	$252,343	David	Hanson	Benjamin E	IL
Navellier	'EMM-003:	Pershing	AWP	FIXCO	2/29/2012	$150,000	8/31/2013	$161,119	David	Hanson	Benjamin E	IL
Navellier	'EMM-003:	Pershing	AWP	FIXCO	3/5/2012	$68,513	8/31/2013	$74,034	David	Hanson	Benjamin E	IL
Navellier	'EMM-003:	Pershing	AWP	FIXCO	3/2/2012	$108,000	8/31/2013	$116,541	David	Hanson	Benjamin E	IL
Navellier	'N3X-0033(	Pershing	AWX	FIXCO	9/11/2013	$227,461	9/11/2013	$227,461	Gerald	Lencke	Compass F	IN
Navellier	'N3X-0033:	Pershing	AWP	FIXCO	9/5/2013	$300,000	9/5/2013	$300,000	Bruce	Patterson	Compass F	IN
Navellier	'N57-0033:	Pershing	AWP	FIXCO	12/21/2010	$222,543	8/31/2013	$255,531	Van	Olmstead	Fulcrum Se	PA
Navellier	'N3X-0033!	Pershing	AWX	FIXCO	9/10/2013	$110,000	9/10/2013	$110,000	Gerald	Lencke	Compass F	IN
Navellier	'N57-0033	Pershing	AWP	FIXCO	2/14/2011	$278,990	8/31/2013	$301,709	Van	Olmstead	Fulcrum Se	PA
Navellier	'N57-0034:	Pershing	AWP	FIXCO	12/22/2010	$131,858	8/31/2013	$135,475	Van	Olmstead	Fulcrum Se	PA
Navellier	'N57-0034	Pershing	AWP	FIXCO	12/27/2010	$122,042	8/31/2013	$135,387	Van	Olmstead	Fulcrum Se	PA
Navellier	'N57-0034!	Pershing	AWP	FIXCO	12/22/2010	$194,989	8/31/2013	$298,863	Van	Olmstead	Fulcrum Se	PA
Navellier	'N57-0034'	Pershing	AWP	FIXCO	12/23/2010	$500,000	8/31/2013	$789,521	Van	Olmstead	Fulcrum Se	PA
Navellier	'N57-0034!	Pershing	AWP	FIXCO	12/29/2010	$234,294	8/31/2013	$224,121	Van	Olmstead	Fulcrum Se	PA
Navellier	'N57-0035(	Pershing	AWP	FIXCO	1/19/2011	$52,693	8/31/2013	$57,671	Van	Olmstead	Fulcrum Se	PA

Navellier	'N57-0035:	Pershing	AWP	FIXCO	12/28/2010	$70,000	8/31/2013	$77,774	Van	Olmstead	Fulcrum Se	PA
Navellier	'N57-0035:	Pershing	AWP	FIXCO	1/10/2011	$102,638	8/31/2013	$106,683	Van	Olmstead	Fulcrum Se	PA
Navellier	'N57-0035:	Pershing	AWP	FIXCO	3/8/2011	$140,000	8/31/2013	$175,395	Van	Olmstead	Fulcrum Se	PA
Navellier	'N57-0035I	Pershing	AWP	FIXCO	4/19/2011	$54,733	8/31/2013	$58,879	Van	Olmstead	Fulcrum Se	PA
Navellier	'N57-0036:	Pershing	AWP	FIXCO	3/24/2011	$386,764	8/31/2013	$423,829	Van	Olmstead	Fulcrum Se	PA
Navellier	'N57-0036	Pershing	AWP	FIXCO	5/31/2011	$185,038	8/31/2013	$185,303	Van	Olmstead	Fulcrum Se	PA
Navellier	'N57-0036!	Pershing	AWP	FIXCO	6/16/2011	$165,000	8/31/2013	$179,997	Van	Olmstead	Fulcrum Se	PA
Navellier	'N57-0037:	Pershing	AWP	FIXCO	12/28/2012	$157,367	8/31/2013	$164,681	Van	Olmstead	Fulcrum Se	PA
Navellier	'N57-0037!	Pershing	AWP	FIXCO	6/4/2013	$293,808	8/31/2013	$290,799	Van	Olmstead	Fulcrum Se	PA
Navellier	'N57-0037(	Pershing	AWP	FIXCO	9/9/2013	$502,480	9/9/2013	$502,480	Van	Olmstead	Fulcrum Se	PA
Navellier	'N57-0037I	Pershing	AWP	FIXCO	3/4/2011	$310,879	8/31/2013	$332,819	Van	Olmstead	Fulcrum Se	PA
Navellier	'929-00471	TD Ameritr	ASP	80 bps - AF	8/7/2013	$122,103	8/31/2013	$118,500	Ken	Zannoni	Congress V	MA
Navellier	'926-0054	TD Ameritr	ADX	85 bps - AC	5/2/2012	$174,028	8/31/2013	$205,212	Raymond	Rennie	Pismo Paci	CA
Navellier	'922-00612	TD Ameritr	AWP	85 bps - AC	12/8/2011	$50,000	8/31/2013	$118,858	Jim	Miller	T D Amerit	AZ
Navellier	'922-00613	TD Ameritr	AWP	85 bps - AC	12/8/2011	$60,000	8/31/2013	$66,136	Jim	Miller	T D Amerit	AZ
Navellier	'EMM-006:	Pershing	ADX	FIXCO	6/21/2012	$154,380	8/31/2013	$190,862	Jeffrey	Wynsma	Benjamin E	IL
Navellier	'EMM-006:	Pershing	ADX	FIXCO	1/24/2012	$299,431	8/31/2013	$361,997	Brian	Wiklund	Benjamin E	KS
Navellier	'EMM-007I	Pershing	ADX	FIXCO	12/16/2011	$100,000	8/31/2013	$128,616	Brian	Wiklund	Benjamin E	KS
Navellier	'922-00822	TD Ameritr	AWP	85 bps - AC	12/5/2011	$75,000	8/31/2013	$145,874	Jim	Miller	T D Amerit	AZ
Navellier	'922-01054	TD Ameritr	AWP	85 bps - AC	12/5/2011	$200,001	8/31/2013	$294,585	Jim	Miller	T D Amerit	AZ
Navellier	'647-0145	Fidelity	ASP	80 bps - AC	10/6/2010	$240,000	8/31/2013	$337,162	Nancy	Skeans	Schneider I	PA
Navellier	'649-02037	Fidelity	ASP	80 bps - AF	4/25/2012	$200,000	8/31/2013	$239,112	Ken	Zannoni	Congress V	MA
Navellier	'651-0215C	Morgan St	AWP	1% - ADV	2/10/2012	$73,858	8/31/2013	$80,742	Christophe	Wagner	Morgan St	NC
Navellier	'676-03505	Fidelity	AGP	1% - ADV	1/18/2013	$410,000	8/31/2013	$511,229	Lawrence	Blonquist	Turnberry I	CA
Navellier	'676-03836	Fidelity	AWP	1% - ADV	2/21/2013	$200,000	8/31/2013	$204,161	Jason	Veinot	Enhanced (	KY
Navellier	'676-03841	Fidelity	ASP	80 bps - AF	1/31/2013	$100,000	8/31/2013	$108,105	Ken	Zannoni	Congress V	MA
Navellier	'676-04035	Fidelity	ASP	1% - ADV	3/8/2013	$75,000	8/31/2013	$78,350	Jason	Veinot	Enhanced (	KY
Navellier	'676-0412C	Fidelity	AWP	1% - ADV	3/6/2013	$150,000	8/31/2013	$165,467	Jason	Veinot	Enhanced (	KY
Navellier	'676-04227	Fidelity	ASP	80 bps - AF	2/6/2013	$499,239	8/31/2013	$540,258	Ken	Zannoni	Congress V	MA
Navellier	'649-04302	Fidelity	ASP	80 bps - AF	5/17/2012	$93,251	8/31/2013	$111,888	Ken	Zannoni	Congress V	MA
Navellier	'676-0447C	Fidelity	ASP	80 bps - AF	2/4/2013	$336,000	8/31/2013	$364,601	Ken	Zannoni	Congress V	MA
Navellier	'647-0461C	Fidelity	ASP	80 bps - AF	9/29/2010	$250,000	8/31/2013	$347,690	Ken	Zannoni	Congress V	MA
Navellier	'676-04662	Fidelity	ASP	80 bps - AF	2/13/2013	$130,000	8/31/2013	$139,457	Ken	Zannoni	Congress V	MA
Navellier	'676-04936	Fidelity	AWP	1% - ADV	3/6/2013	$100,000	8/31/2013	$105,265	Jason	Veinot	Enhanced (	KY
Navellier	'638-05215	Fidelity	ASP	80 bps - AC	1/8/2013	$500,000	8/31/2013	$643,397	Nancy	Skeans	Schneider I	PA
Navellier	'915-05268	TD Ameritr	AWP	1% - ADV	5/5/2011	$155,250	8/31/2013	$170,845				
Navellier	'926-05398	TD Ameritr	ASP	80 bps - AF	7/24/2013	$275,000	8/31/2013	$267,986	Ken	Zannoni	Congress V	MA
Navellier	'676-05465	Fidelity	ASP	80 bps - AF	2/22/2013	$318,165	8/31/2013	$345,519	Ken	Zannoni	Congress V	MA
Navellier	'638-05483	Fidelity	ASP	80 bps - AC	8/28/2012	$230,000	8/31/2013	$267,693	Nancy	Skeans	Schneider I	PA
Navellier	'676-05683	Fidelity	ASP	80 bps - AF	2/25/2013	$355,540	8/31/2013	$385,179	Ken	Zannoni	Congress V	MA
Navellier	'676-05684	Fidelity	ASP	80 bps - AF	2/25/2013	$476,188	8/31/2013	$515,387	Ken	Zannoni	Congress V	MA
Navellier	'676-06192	Fidelity	ADX	85 bps - AC	4/25/2013	$395,371	8/31/2013	$414,518	Robert	Harwood	Harwood A	FL
Navellier	'676-06227	Fidelity	ASP	1% - ADV	3/11/2013	$55,000	8/31/2013	$112,444	Jason	Veinot	Enhanced (	KY
Navellier	'656-06268	Fidelity	ASP	80 bps - AF	7/16/2010	$750,575	8/31/2013	$641,135	Ken	Zannoni	Congress V	MA
Navellier	'926-0643C	TD Ameritr	ASP	80 bps - AF	7/18/2013	$1,200,000	8/31/2013	$1,165,232	Ken	Zannoni	Congress V	MA
Navellier	'373-06508	Morgan St	AWP	1% - ADV	2/22/2012	$198,634	8/31/2013	$208,901	Lorn	Lyman	Morgan St	OK
Navellier	'920-06682	TD Ameritr	ASP	1% - ADV	6/11/2013	$1,268,041	8/31/2013	$1,306,654				
Navellier	'364-06736	Morgan St	AWX	85 bps - AC	1/19/2012	$420,280	8/31/2013	$468,026	Chris	Most	Morgan St	MN
Navellier	'364-06737	Morgan St	AWX	85 bps - AC	1/18/2012	$108,691	8/31/2013	$128,851	Chris	Most	Morgan St	MN
Navellier	'364-06738	Morgan St	AWX	85 bps - AC	8/23/2013	$389,362	8/31/2013	$384,014	Chris	Most	Morgan St	MN
Navellier	'364-0674C	Morgan St	AWX	85 bps - AC	2/15/2013	$150,000	8/31/2013	$154,279	Chris	Most	Morgan St	MN
Navellier	'638-06743	Fidelity	ASP	80 bps - AC	1/7/2013	$50,000	8/31/2013	$210,566	Nancy	Skeans	Schneider I	PA
Navellier	'364-06743	Morgan St	AWX	85 bps - AC	10/4/2012	$276,882	8/31/2013	$300,714	Chris	Most	Morgan St	MN
Navellier	'364-06743	Morgan St	AWP	1% - ADV	9/9/2010	$200,532	8/31/2013	$244,558	Chris	Most	Morgan St	MN
Navellier	'364-06743	Morgan St	AWX	85 bps - AC	9/10/2010	$99,955	8/31/2013	$157,451	Chris	Most	Morgan St	MN
Navellier	'364-06748	Morgan St	AWP	1% - ADV	2/25/2011	$99,825	8/31/2013	$119,621	Chris	Most	Morgan St	MN
Navellier	'364-0675C	Morgan St	AWP	1% - ADV	7/30/2010	$99,870	8/31/2013	$124,239	Chris	Most	Morgan St	MN
Navellier	'364-06757	Morgan St	AWX	85 bps - AC	5/23/2013	$100,000	8/31/2013	$98,930	Chris	Most	Morgan St	MN
Navellier	'364-06759	Morgan St	AWX	85 bps - AC	2/21/2012	$174,778	8/31/2013	$188,627	Chris	Most	Morgan St	MN
Navellier	'364-0676C	Morgan St	AWP	1% - ADV	4/21/2011	$112,399	8/31/2013	$232,354	Chris	Most	Morgan St	MN
Navellier	'364-06761	Morgan St	AWX	85 bps - AC	12/12/2011	$109,906	8/31/2013	$110,731	Chris	Most	Morgan St	MN
Navellier	'638-06764	Fidelity	AWP	1% - ADV	12/7/2012	$50,000	8/31/2013	$51,893	Bob	Ryan	Resolute Fi	MA
Navellier	'364-06766	Morgan St	AWX	85 bps - AC	11/11/2011	$118,046	8/31/2013	$159,193	Chris	Most	Morgan St	MN
Navellier	'676-06887	Fidelity	AWP	1% - ADV	4/9/2013	$98,000	8/31/2013	$97,345	Jason	Veinot	Enhanced (	KY
Navellier	'676-07173	Fidelity	ASP	80 bps - AF	4/4/2013	$375,000	8/31/2013	$391,650	Ken	Zannoni	Congress V	MA
Navellier	'676-07174	Fidelity	ASP	80 bps - AF	6/3/2013	$300,000	8/31/2013	$300,805	Ken	Zannoni	Congress V	MA
Navellier	'676-07308	Fidelity	ASP	1% - ADV	4/23/2013	$46,000	4/23/2013	$46,000	Jason	Veinot	Enhanced (	KY
Navellier	'638-07437	Fidelity	ASP	1% - ADV	3/4/2013	$100,000	8/31/2013	$106,624	Chuck	Johnson	Resolute Fi	MA
Navellier	'638-07465	Fidelity	ASP	1% - ADV	2/27/2013	$65,000	8/31/2013	$69,630	Chuck	Johnson	Resolute Fi	MA
Navellier	'676-07601	Fidelity	ASP	80 bps - AF	5/3/2013	$120,028	8/31/2013	$121,571	Ken	Zannoni	Congress V	MA
Navellier	'676-07745	Fidelity	ASP	1% - ADV	5/1/2013	$150,000	8/31/2013	$227,047	Jason	Veinot	Enhanced (	KY
Navellier	'676-07747	Fidelity	ASP	1% - ADV	4/29/2013	$105,000	8/31/2013	$180,225	Jason	Veinot	Enhanced (	KY
Navellier	'676-07747	Fidelity	AWP	1% - ADV	4/29/2013	$200,000	8/31/2013	$270,060	Jason	Veinot	Enhanced (	KY
Navellier	'676-07771	Fidelity	AWX	85 bps - AC	6/5/2013	$90,045	8/31/2013	$91,026	Robert	Harwood	Harwood A	FL

Navellier	'649-0794C	Fidelity	ASP	80 bps - AF	5/14/2012	$100,000	8/31/2013	$121,510	Ken	Zannoni	Congress V	MA
Navellier	'676-0799!	Fidelity	ASP	80 bps -·AF	7/5/2013	$291,132	8/31/2013	$594,688	Ken	Zannoni	Congress V	MA
Navellier	'649-0860!	Fidelity	ASP	80 bps - AF	12/9/2011	$357,895	8/31/2013	$425,560	Ken	Zannoni	Congress V	MA
Navellier	'676-0870C	Fidelity	ASP	80 bps - AF	4/30/2013	$120,456	8/31/2013	$122,921	Ken	Zannoni	Congress V	MA
Navellier	'676-0892	Fidelity	ASP	80 bps - AF	5/21/2013	$130,000	8/31/2013	$127,021	Ken	Zannoni	Congress V	MA
Navellier	'676-0903(	Fidelity	AWX	85 bps - AC	6/20/2013	$95,584	8/31/2013	$97,109	Robert	Harwood	Harwood A	FL
Navellier	'676-0929C	Fidelity	AWP	1% - ADV	5/31/2013	$50,000	8/31/2013	$73,822	Jason	Veinot	Enhanced (	KY
Navellier	'676-0929]	Fidelity	ASP	1% - ADV	5/31/2013	$50,000	8/31/2013	$74,005	Jason	Veinot	Enhanced (	KY
Navellier	'649-0988!	Fidelity	ASP	80 bps - AF	6/7/2012	$159,640	8/31/2013	$197,863	Ken	Zannoni	Congress V	MA
Navellier	'N3X-1000(	Pershing	ADX	FIXCO	3/15/2013	$83,298	8/31/2013	$85,215	Al	Rosebush	Compass F	IN
Navellier	'N3X-1000:	Pershing	ADX	FIXCO	4/19/2013	$83,890	8/31/2013	$89,788	Al	Rosebush	Compass F	IN
Navellier	'N3X-1000:	Pershing	ADX	FIXCO	5/1/2013	$28,811	8/31/2013	$29,857	Al	Rosebush	Compass F	IN
Navellier	'N3X-1000	Pershing	ADX	FIXCO	5/1/2013	$33,768	8/31/2013	$35,026	Al	Rosebush	Compass F	IN
Navellier	'N3X-1000!	Pershing	ASP	FIXCO	7/1/2013	$124,801	7/1/2013	$124,801	Al	Rosebush	Compass F	IN
Navellier	'N3X-1000(	Pershing	ASP	FIXCO	7/1/2013	$50,051	7/1/2013	$50,051	Al	Rosebush	Compass F	IN
Navellier	'N3X-1000	Pershing	ADX	FIXCO	8/21/2013	$260,050	8/31/2013	$257,295	Al	Rosebush	Compass F	IN
Navellier	'N3X-1000I	Pershing	ADX	FIXCO	8/28/2013	$174,689	8/31/2013	$173,438	Al	Rosebush	Compass F	IN
Navellier	'N3X-1001(	Pershing	ADX	FIXCO	8/21/2013	$285,456	8/31/2013	$282,431	Al	Rosebush	Compass F	IN
Navellier	'1001-112	Wells Farg	ADX	85 bps - AC	11/18/2011	$150,000	8/31/2013	$301,331	David	Temple	Wells Farg	IN
Navellier	'N3X-1001:	Pershing	ADX	FIXCO	8/21/2013	$143,206	8/20/2013	$142,374	Al	Rosebush	Compass F	IN
Navellier	'N3X-1001:	Pershing	ADX	FIXCO	8/21/2013	$87,921	8/31/2013	$86,965	Al	Rosebush	Compass F	IN
Navellier	'N3X-1001:	Pershing	ADX	FIXCO	9/5/2013	$183,113	9/5/2013	$183,113	Al	Rosebush	Compass F	IN
Navellier	'676-1001:	Fidelity	ASP	80 bps - AF	5/22/2013	$181,825	5/22/2013	$181,825	Ken	Zannoni	Congress V	MA
Navellier	'1001-684	Wells Farg	ADX	85 bps - AC	12/23/2011	$165,701	8/31/2013	$204,672	O'Connell/Schommer/		Wells Farg	AK
Navellier	'1002-453!	Wells Farg	ASP	1% - ADV	7/31/2013	$100,000	8/31/2013	$96,286	Melissa	Attanasio	Wells Farg	NV
Navellier	'N3X-1002!	Pershing	ADX	FIXCO	3/6/2013	$86,027	8/31/2013	$93,323	Al	Rosebush	Compass F	IN
Navellier	'N3X-1002(	Pershing	ADX	FIXCO	3/6/2013	$319,874	8/31/2013	$341,724	Al	Rosebush	Compass F	IN
Navellier	'N3X-1002:	Pershing	ADX	FIXCO	3/13/2013	$143,168	8/31/2013	$150,305	Al	Rosebush	Compass F	IN
Navellier	'1002-745	Wells Farg	ADX	85 bps - AC	4/5/2013	$125,000	8/31/2013	$133,025	John	Sciuto	Wells Farg	NY
Navellier	'N3X-1002I	Pershing	ADX	FIXCO	3/5/2013	$114,316	8/31/2013	$95,693	Al	Rosebush	Compass F	IN
Navellier	'N3X-1002!	Pershing	ADX	FIXCO	3/6/2013	$98,221	8/31/2013	$104,553	Al	Rosebush	Compass F	IN
Navellier	'N3X-1003(	Pershing	ADX	FIXCO	3/14/2013	$69,576	8/31/2013	$72,655	Al	Rosebush	Compass F	IN
Navellier	'1007-333	Wells Farg	ADX	85 bps - AC	10/3/2012	$325,000	8/31/2013	$646,592	Walter	Meanwell	Wells Farg	WI
Navellier	'1008-481	Wells Farg	ADX	85 bps - AC	12/15/2011	$121,198	8/31/2013	$425,224	Scott	Worrell	Wells Farg	FL
Navellier	'1008-907:	Charles Scl	ASP	80 bps - AC	7/27/2010	$100,000	8/31/2013	$884,055	Nancy	Skeans	Schneider I	PA
Navellier	'1011-119(	Wells Farg	ADX	85 bps - AC	4/20/2012	$119,695	8/31/2013	$140,340	Joel	Worsfold	Wells Farg	IA
Navellier	'1015-246(	Wells Farg	AWP	1% - ADV	3/14/2013	$184,000	8/31/2013	$182,832	Thomas	Nunnenkar	Wells Farg	NC
Navellier	'1016-130:	Wells Farg	ADX	85 bps - AC	11/9/2011	$99,780	8/31/2013	$125,833	Troy/Scott	Wagnon/W	Wells Farg	AL
Navellier	'676-1019]	Fidelity	ASP	80 bps - AF	6/3/2013	$500,000	8/31/2013	$503,297	Ken	Zannoni	Congress V	MA
Navellier	'1019-100(	Wells Farg	AWP	1% - ADV	6/5/2012	$683,831	8/31/2013	$1,269,755	Brian	Boll	Wells Farg	AZ
Navellier	'1020-712!	Wells Farg	AEX	85 bps - AC	4/13/2012	$127,676	8/31/2013	$143,750	Ward	Welles	Wells Farg	CO
Navellier	'1021-284(	Wells Farg	AWP	1% - ADV	12/21/2011	$525,857	8/31/2013	$499,994	Bruce	Bevins	Wells Farg	NC
Navellier	'1021-722	Wells Farg	AEX	85 bps - AC	2/21/2012	$307,658	8/31/2013	$339,113	Micah	Gibson	Arvest Inve	AR
Navellier	'1022-381!	Wells Farg	AWX	85 bps - AC	6/3/2013	$129,757	8/31/2013	$129,284	Robert	O'Neal	Wells Farg	AR
Navellier	'1026-044(	Wells Farg	ADX	85 bps - AC	5/16/2013	$248,939	8/31/2013	$247,795	Rose	Yuster	Wells Farg	FL
Navellier	'1026-492E	Wells Farg	AWP	1% - ADV	12/30/2010	$216,535	8/31/2013	$406,542		Parker Ma:	Wells Farg	PA
Navellier	'1026-557:	Wells Farg	AWP	1% - ADV	1/13/2012	$199,516	8/31/2013	$284,593	Steven	Parker	Wells Farg	NC
Navellier	'1026-889!	Wells Farg	AWX	85 bps - AC	6/13/2013	$100,000	8/31/2013	$99,707	Larry	Magid	Wells Farg	TX
Navellier	'1027-731E	Wells Farg	ADX	85 bps - AC	8/12/2013	$343,690	8/31/2013	$331,699	Dominick	Ruiz	Wells Farg	CA
Navellier	'1035-535E	Wells Farg	AWX	85 bps - AC	4/27/2012	$322,843	8/31/2013	$403,095	Justin	Hoyt	Wells Farg	AZ
Navellier	'1037-988E	Linsco Priv	AWP	FIXCO	6/18/2013	$200,000	8/31/2013	$197,073	Matthew	Hiss	LPL Financi	KS
Navellier	'1039-563(	Stifel	AWP	1% - ADV	8/12/2010	$250,800	8/31/2013	$309,559	Erik	Sermarini	Stifel Nicol	NJ
Navellier	'1039-975:	Wells Farg	AWP	1% - ADV	1/10/2013	$250,000	8/31/2013	$255,869	Whichard/Woolard		Wells Farg	NC
Navellier	'1040-460	Wells Farg	AWP	1% - ADV	12/15/2010	$178,299	8/31/2013	$203,028	John	Fritz	Wells Farg	OK
Navellier	'1047-436:	Wells Farg	ASP	85 bps - AC	6/3/2013	$121,249	8/31/2013	$112,858	Justin	McDonald	Wells Farg	CA
Navellier	'1049-873	Wells Farg	ADX	85 bps - AC	5/10/2012	$102,543	8/31/2013	$123,584	Solomon, Greer & Dul		Wells Farg	FL
Navellier	'1049-912	Wells Farg	AWP	1% - ADV	1/19/2011	$209,163	8/31/2013	$302,754		Anderson I	Wells Farg	KS
Navellier	'1053-410:	Wells Farg	AWP	1% - ADV	7/15/2011	$99,678	8/31/2013	$139,838	Ken	Schmiedba	Wells Farg	KS
Navellier	'676-1055]	Fidelity	ASP	80 bps - AF	7/26/2013	$320,801	8/31/2013	$311,910	Ken	Zannoni	Congress V	MA
Navellier	'1055-513:	Wells Farg	AWP	1% - ADV	2/13/2012	$341,194	8/31/2013	$366,483	Matthew	Rickaway	Wells Farg	TX
Navellier	'1056-579:	Wells Farg	ADX	85 bps - AC	5/15/2012	$870,985	8/31/2013	$1,066,124	McAtee/McAtee		Wells Farg	MO
Navellier	'1057-299(	Wells Farg	AWP	1% - ADV	10/28/2011	$99,731	8/31/2013	$103,539	Cameron	Nelson	Wells Farg	MN
Navellier	'676-1057	Fidelity	ASP	80 bps - AF	6/11/2013	$500,000	8/31/2013	$501,516	Ken	Zannoni	Congress V	MA
Navellier	'1059-468E	Wells Farg	ASP	1% - ADV	6/16/2011	$99,956	8/31/2013	$124,278	Dan	Kramer	Wells Farg	NJ
Navellier	'1062-555]	Wells Farg	AWP	1% - ADV	1/11/2012	$105,936	8/31/2013	$110,889	Richard	Cisar	Wells Farg	AZ
Navellier	'676-1065	Fidelity	ASP	80 bps - AF	6/6/2013	$230,000	8/31/2013	$234,557	Ken	Zannoni	Congress V	MA
Navellier	'1065-845E	Wells Farg	ADX	85 bps - AC	7/5/2013	$200,000	8/31/2013	$202,971	Terry	Crowley	Wells Farg	IL
Navellier	'1067-038!	Wells Farg	AEX	85 bps - AC	3/1/2013	$644,623	8/31/2013	$669,811	Demarcus/Ong/Tsou		Wells Farg	CA
Navellier	'1067-091]	Wells Farg	ADX	85 bps - AC	4/20/2012	$180,000	8/31/2013	$178,311	Stephen	Thomas	Wells Farg	NC
Navellier	'1068-731]	Wells Farg	ASP	1% - ADV	4/18/2013	$283,050	8/31/2013	$368,571	George	Welker	Wells Farg	CT
Navellier	'1072-442!	Wells Farg	ADX	85 bps - AC	1/30/2012	$124,721	8/31/2013	$152,189	Joel	Worsfold	Wells Farg	IA
Navellier	'1074-1031	Stifel	AGX	85 bps - AC	4/10/2012	$169,348	8/31/2013	$182,585	Dave	Westerfelc	Stifel Nicol	CA
Navellier	'1074-373	Wells Farg	AWP	1% - ADV	10/23/2012	$101,944	8/31/2013	$106,628	Paul	Stiegelmei	Wells Farg	ND
Navellier	'1074-795]	Wells Farg	ADX	85 bps - AC	2/29/2012	$349,762	8/31/2013	$255,467	Megarity & Hennesse		Wells Farg	TX

Navellier	'1076-441J	Wells Farg	ADX	85 bps - AC	9/6/2013	$120,000	9/6/2013	$120,000	Joel	Worsfold	Wells Farg	IA
Navellier	'676-1076!	Fidelity	ASP	80 bps - AF	6/6/2013	$400,000	8/31/2013	$405,849	Ken	Zannoni	Congress V	MA
Navellier	'676-1076E	Fidelity	ASP	80 bps - AF	6/6/2013	$400,000	8/31/2013	$406,085	Ken	Zannoni	Congress V	MA
Navellier	'676-1076E	Fidelity	ASP	80 bps - AF	6/6/2013	$400,000	8/31/2013	$405,387	Ken	Zannoni	Congress V	MA
Navellier	'1078-672!	Wells Farg	AWX	85 bps - AC	2/23/2012	$99,839	8/31/2013	$106,379	Scott	Richardsor	Wells Farg	GA
Navellier	'1078-834E	Wells Farg	ADX	85 bps - AC	8/30/2011	$104,271	8/31/2013	$130,776	Jerry	Goodman	Wells Farg	TN
Navellier	'1081-484E	Wells Farg	ADX	85 bps - AC	9/27/2011	$99,980	8/31/2013	$183,541	Keith	Comer	Wells Farg	GA
Navellier	'1082-803E	Wells Farg	AWP	1% - ADV	7/9/2012	$243,638	8/31/2013	$265,261	Eric	Smith	Wells Farg	NV
Navellier	'1083-117	Wells Farg	AWP	1% - ADV	5/29/2013	$169,919	8/31/2013	$166,314	Christophe	Housley	Wells Farg	AZ
Navellier	'1083-478!	Wells Farg	AWX	85 bps - AC	3/25/2013	$289,349	8/31/2013	$292,215	Timothy C	Metcalf	Wells Farg	CA
Navellier	'1083-891E	Wells Farg	ASP	1% - ADV	1/16/2013	$100,269	8/31/2013	$100,574	Matthew	Barker	Wells Farg	CA
Navellier	'1083-9057	Wells Farg	ADX	85 bps - AC	5/17/2012	$120,809	8/31/2013	$151,635	William	Hudson	Wells Farg	IA
Navellier	'1085-479E	Charles Scl	AWP	1.25%	7/29/2010	$50,000	8/31/2013	$57,768		IST Team 6	Charles Scl	AZ
Navellier	'1085-7801	Wells Farg	AWP	1% - ADV	12/9/2010	$148,209	8/31/2013	$261,488	Jeffrey	Hobart	Wells Farg	NC
Navellier	'1086-0992	Wells Farg	AWX	85 bps - AC	5/10/2013	$144,752	8/31/2013	$141,373	John	Clement	Arvest Inve	OK
Navellier	'1090-537E	Wells Farg	AGP	1% - ADV	12/9/2010	$370,581	8/31/2013	$394,192	Fred	Goduti	Wells Farg	NC
Navellier	'1091-5331	Wells Farg	ASP	90 bps - AC	11/29/2010	$49,975	8/31/2013	$122,059	Mark	Caputo	Wells Farg	TX
Navellier	'676-1094	Fidelity	ASP	80 bps - AF	6/10/2013	$300,000	8/31/2013	$299,799	Ken	Zannoni	Congress V	MA
Navellier	'1095-593E	Wells Farg	ADX	85 bps - AC	6/14/2012	$197,667	8/31/2013	$248,834	Bradley	Lott	Wells Farg	MI
Navellier	'1100-472!	Wells Farg	AEP	1% - ADV	9/22/2010	$97,973	8/31/2013	$116,669		Anderson !	Wells Farg	KS
Navellier	'1102-686!	Wells Farg	AEX	85 bps - AC	3/20/2013	$100,000	8/31/2013	$152,667	Thomas	Batson	Wells Farg	AZ
Navellier	'1103-355	Wells Farg	ADX	85 bps - AC	2/11/2013	$111,653	4/16/2013	$113,486	Kurkjian/Phillips		Wells Farg	IL
Navellier	'1103-837!	Wells Farg	AWP	1% - ADV	6/18/2013	$200,000	8/31/2013	$196,847	Steven	Parker	Wells Farg	NC
Navellier	'1104-057	Wells Farg	AWP	1% - ADV	2/13/2013	$150,000	8/31/2013	$150,620	Baier / Brien		Wells Farg	NY
Navellier	'1106-223!	Wells Farg	AWX	85 bps - AC	8/15/2013	$99,833	8/31/2013	$98,067	Rauch Pease Wealth M		Wells Farg	NJ
Navellier	'1106-3197	Wells Farg	AWP	1% - ADV	4/14/2011	$100,353	8/31/2013	$108,232	Brendan	Wolverton	Wells Farg	OK
Navellier	'1106-615!	Wells Farg	AWX	85 bps - AC	11/19/2012	$100,000	8/31/2013	$640,795	John	Clement	Arvest Inve	OK
Navellier	'1107-198!	Wells Farg	AGX	85 bps - AC	2/13/2013	$400,000	8/31/2013	$417,170	Stephanie	Moss	Wells Farg	CA
Navellier	'1108-3827	Wells Farg	ASP	1% - ADV	5/7/2013	$100,091	8/31/2013	$99,536	Paul	Stiegelmei	Wells Farg	ND
Navellier	'1109-008!	Wells Farg	AWP	1% - ADV	8/28/2013	$186,773	8/31/2013	$185,811	James	Wong	Wells Farg	CA
Navellier	'1109-084C	Wells Farg	ADX	85 bps - AC	2/6/2012	$124,751	8/31/2013	$148,480	Lemon/Shelton/Ellert		Wells Farg	VA
Navellier	'1109-2317	Wells Farg	AWX	85 bps - AC	2/13/2013	$150,000	8/31/2013	$151,828	Berit	Suba	Wells Farg	CA
Navellier	'1109-620	Wells Farg	AWP	90 bps - AC	3/23/2012	$141,956	8/31/2013	$144,893	Dominick	Giovannon	Wells Farg	NJ
Navellier	'1109-838E	Wells Farg	ADX	85 bps - AC	5/17/2013	$120,000	8/31/2013	$118,977	Dominick	Ruiz	Wells Farg	CA
Navellier	'676-1110!	Fidelity	ASP	80 bps - AC	6/19/2013	$200,000	8/31/2013	$199,629	Ken	Zannoni	Congress V	MA
Navellier	'1113-728!	Wells Farg	AWP	85 bps - AC	6/3/2013	$169,872	8/31/2013	$168,030	Eddy	Olandj	Wells Farg	CA
Navellier	'676-1115J	Fidelity	ASP	80 bps - AF	6/27/2013	$131,620	8/31/2013	$133,238	Ken	Zannoni	Congress V	MA
Navellier	'1117-1367	Wells Farg	ADX	85 bps - AC	6/28/2013	$99,999	8/31/2013	$101,984	Rose	Yuster	Wells Farg	FL
Navellier	'1119-511	Wells Farg	AWX	85 bps - AC	7/3/2012	$101,551	8/31/2013	$112,221	Renee	Hruska	Wells Farg	AZ
Navellier	'1123-177!	Wells Farg	AWP	1% - ADV	4/30/2013	$100,000	8/31/2013	$94,143	Elizabeth	Wickham	Wells Farg	CA
Navellier	'1124-062E	Wells Farg	ADX	85 bps - AC	9/4/2013	$137,951	9/4/2013	$137,951	Keith	Anderson	Wells Farg	IA
Navellier	'1125-163E	Wells Farg	AWP	1% - ADV	10/28/2011	$146,956	8/31/2013	$162,753	Matthew	Rickaway	Wells Farg	TX
Navellier	'1125-216!	Wells Farg	AWX	85 bps - AC	11/8/2012	$322,130	8/31/2013	$212,464	Micah	Gibson	Arvest Inve	AR
Navellier	'1126-584!	Wells Farg	AEX	85 bps - AC	11/12/2012	$79,240	8/31/2013	$90,074	Micah	Gibson	Arvest Inve	AR
Navellier	'1126-790!	Wells Farg	AWP	1% - ADV	11/18/2011	$330,258	8/31/2013	$248,830	Dwight	Ensminger	Wells Farg	KS
Navellier	'676-1131!	Fidelity	ASP	80 bps - AF	6/26/2013	$250,000	8/31/2013	$256,055	Ken	Zannoni	Congress V	MA
Navellier	'1131-949	Wells Farg	ADX	85 bps - AC	1/3/2012	$105,281	8/31/2013	$131,932	Bradley	Lott	Wells Farg	MI
Navellier	'1133-410!	Wells Farg	ADX	85 bps - AC	1/31/2012	$101,096	8/31/2013	$113,539	Stephen	Thomas	Wells Farg	NC
Navellier	'1136-107	Wells Farg	ADX	85 bps - AC	3/16/2012	$99,441	8/31/2013	$113,335	Dane	Parilo	Wells Farg	FL
Navellier	'1136-507C	Wells Farg	AEX	85 bps - AC	4/16/2013	$70,000	8/31/2013	$71,617	David	Sanders	Legacy We	ID
Navellier	'1137-180C	Linsco Priv	AWP	FIXCO	6/5/2013	$125,000	8/31/2013	$124,324	William	Lethemon	LPL Financi	MI
Navellier	'1138-3997	Wells Farg	AWP	1% - ADV	9/23/2011	$137,963	8/31/2013	$163,351	Beth	Sparks	Wells Farg	TX
Navellier	'134-1138E	Morgan St	AEP	1% - ADV	6/20/2012	$100,000	8/31/2013	$115,720	Bob	Pellettieri	Morgan St	HI
Navellier	'1141-833E	Wells Farg	ASP	1% - ADV	4/23/2013	$215,847	8/31/2013	$220,386	Michael	Dowell	Wells Farg	NC
Navellier	'1142-036!	Wells Farg	ADX	85 bps - AC	4/30/2012	$99,732	8/31/2013	$116,399	Darrell	Hueni	Wells Farg	TX
Navellier	'1142-555E	Wells Farg	ADX	85 bps - AC	4/5/2012	$124,622	8/31/2013	$248,965	Joel	Worsfold	Wells Farg	IA
Navellier	'1144-159!	Wells Farg	AWP	1% - ADV	8/20/2010	$75,002	8/31/2013	$97,690	Lyn	Hennion	Umpqua In	OR
Navellier	'1144-190!	Wells Farg	ASP	1% - ADV	7/20/2011	$125,782	8/31/2013	$150,754	Dan	Kramer	Wells Farg	NJ
Navellier	'1144-547!	Wells Farg	ADX	85 bps - AC	3/9/2012	$149,896	8/31/2013	$267,575	Stan	Reeg	Wells Farg	IA
Navellier	'1146-318!	Wells Farg	AWP	1% - ADV	4/7/2011	$127,831	8/31/2013	$138,321	David	Naidl	Wells Farg	WI
Navellier	'1147-141!	Wells Farg	AWP	1% - ADV	3/10/2011	$205,873	8/31/2013	$171,535	Timothy C	Metcalf	Wells Farg	CA
Navellier	'1148-130!	Wells Farg	ASP	1% - ADV	6/29/2011	$1,178,204	8/31/2013	$252,318	Thomas	Fields	Wells Farg	TN
Navellier	'1151-364	Wells Farg	AWP	1% - ADV	2/18/2011	$115,042	8/31/2013	$123,556	Doug	Wuerl	Wells Farg	CA
Navellier	'1152-219E	Wells Farg	AWX	85 bps - AC	9/20/2012	$100,000	8/31/2013	$106,193	Jason	Cole	Wells Farg	CA
Navellier	'1157-700!	Stifel	ADX	85 bps - AC	1/31/2012	$299,412	8/31/2013	$366,543	John	Peterson	Stifel Nicol	FL
Navellier	'1161-181E	Wells Farg	AWX	85 bps - AC	4/22/2013	$105,000	8/31/2013	$105,858	Stacy	Quiri	Wells Farg	AZ
Navellier	'1161-7301	Wells Farg	AWX	85 bps - AC	1/17/2012	$143,583	8/31/2013	$125,512	Frank	O'Neill	Wells Farg	TX
Navellier	'1162-332!	Wells Farg	ADX	85 bps - AC	4/29/2013	$261,095	8/31/2013	$271,873	Justin	Hoyt	Wells Farg	AZ
Navellier	'1163-205!	Wells Farg	AWP	1% - ADV	1/4/2011	$87,535	8/31/2013	$114,138		Parker Ma	Wells Farg	PA
Navellier	'1164-696!	Wells Farg	AWP	1% - ADV	11/16/2011	$124,808	8/31/2013	$244,692	David	Bradley	Wells Farg	TN
Navellier	'1166-923	Wells Farg	AEP	1% - ADV	11/5/2010	$724,083	8/31/2013	$759,523		Anderson !	Wells Farg	KS
Navellier	'1166-948!	Wells Farg	ADX	85 bps - AC	3/5/2012	$718,309	8/31/2013	$963,276	Richardson/Fitzgerald		Wells Farg	GA
Navellier	'1170-544!	Wells Farg	ADX	85 bps - AC	4/13/2012	$100,000	8/31/2013	$117,950	Sean	Chatman	Wells Farg	CA
Navellier	'1174-038!	Charles Scl	AWP	1% - ADV	7/5/2012	$162,264	8/31/2013	$175,433	Bart	Jones	Investmen	TN

Navellier	'1176-5155	Wells Farg	AWX	85 bps - AD	6/21/2013	$200,000	8/31/2013	$202,965	Demarcus/Ong/Tsou		Wells Farg	CA
Navellier	'1178-1270	Wells Farg	ADX	85 bps - AD	10/14/2011	$100,000	8/31/2013	$126,479	Mark	Caputo	Wells Farg	TX
Navellier	'1178-7690	Wells Farg	ADX	85 bps - AD	1/26/2012	$99,632	8/31/2013	$118,669	William	Gladney	Wells Farg	MO
Navellier	'1178-8034	Wells Farg	AEP	1% - ADV	9/7/2012	$100,000	8/31/2013	$107,348	John	Olivier	Wells Farg	NY
Navellier	'1179-5075	Wells Farg	AWP	90 bps - AD	6/7/2011	$166,430	8/31/2013	$180,370	Dominick	Giovannon	Wells Farg	NJ
Navellier	'1180-6567	Wells Farg	ADX	85 bps - AD	11/3/2011	$99,674	8/31/2013	$124,663	Tarara/Shanks		Wells Farg	MN
Navellier	'1180-8199	Wells Farg	ADX	75 bps - AD	8/3/2012	$163,231	8/31/2013	$208,202	Walter	Meanwell	Wells Farg	WI
Navellier	'1181-5466	Wells Farg	ASP	1% - ADV	8/15/2013	$100,000	8/31/2013	$97,968	Barton / Barton / Aspi		Wells Farg	GA
Navellier	'1181-8721	Wells Farg	AWP	1% - ADV	6/28/2012	$229,181	8/31/2013	$344,145	Richard	Cisar	Wells Farg	AZ
Navellier	'1185-3389	Wells Farg	AEP	1% - ADV	3/24/2011	$269,933	8/31/2013	$325,632		Anderson (	Wells Farg	KS
Navellier	'1185-7653	Wells Farg	ASP	1% - ADV	8/1/2013	$99,747	8/31/2013	$95,732	Brian	Carey	Wells Farg	CA
Navellier	'1186-5699	Wells Farg	ADX	85 bps - AD	4/19/2012	$142,609	8/31/2013	$168,201	Greg	Farah	Wells Farg	NJ
Navellier	'1186-9130	Wells Farg	AWX	85 bps - AD	11/16/2011	$150,000	8/31/2013	$176,410	Barbara	O'Non	Wells Farg	AZ
Navellier	'1188-2997	Wells Farg	AWP	1% - ADV	2/9/2012	$99,676	8/31/2013	$74,970	Roger	Vlach	Wells Farg	OR
Navellier	'1189-1691	Wells Farg	ADX	85 bps - AD	6/27/2013	$100,000	8/31/2013	$102,212	Rose	Yuster	Wells Farg	FL
Navellier	'1189-7084	Wells Farg	AWP	1% - ADV	3/21/2011	$174,905	8/31/2013	$192,319	David	Levy	Wells Farg	CA
Navellier	'1189-8606	Wells Farg	AWX	85 bps - AD	1/31/2012	$249,361	8/31/2013	$272,275	Frank	Snyder	Wells Farg	OH
Navellier	'1192-4233	Wells Farg	ADX	85 bps - AD	5/22/2013	$200,000	8/31/2013	$197,244	Walter	Meanwell	Wells Farg	WI
Navellier	'1192-4471	Wells Farg	ASP	1% - ADV	9/28/2012	$152,000	8/31/2013	$170,716	Todd	Reeg	Wells Farg	AZ
Navellier	'1194-5615	Wells Farg	ADX	85 bps - AD	2/21/2012	$169,168	8/31/2013	$199,140	Kurkjian/Phillips		Wells Farg	IL
Navellier	'1195-8035	Wells Farg	AWP	1% - ADV	10/28/2011	$249,686	8/31/2013	$283,073	Steve	Pergande	Wells Farg	WI
Navellier	'1197-2359	Stifel	ADX	85 bps - AD	5/22/2012	$96,423	8/31/2013	$122,611	Elaina	Garvin	Stifel Nicol	FL
Navellier	'1199-1512	Wells Farg	AWP	1% - ADV	6/13/2013	$251,318	8/31/2013	$250,164	Mark	Fellows	Wells Farg	CO
Navellier	'676-11995	Fidelity	ASP	80 bps - AF	8/27/2013	$75,000	8/31/2013	$74,637	Ken	Zannoni	Congress V	MA
Navellier	'1199-5097	Wells Farg	ADX	85 bps - AD	3/30/2012	$99,988	8/31/2013	$115,042	Lemon/Shelton/Ellerto		Wells Farg	VA
Navellier	'1199-8205	Wells Farg	AEP	1% - ADV	5/13/2011	$249,657	8/31/2013	$253,846		Anderson (	Wells Farg	KS
Navellier	'1199-8412	Wells Farg	ADX	85 bps - AD	4/3/2012	$41,687	8/31/2013	$86,798	Covino/Covino/Sande		Legacy We	ID
Navellier	'1200-5987	Wells Farg	AWP	1% - ADV	9/16/2010	$99,935	8/31/2013	$117,057	Lyn	Hennion	Umpqua In	OR
Navellier	'1200-6306	Wells Farg	AWX	85 bps - AD	8/2/2013	$328,265	8/31/2013	$318,274	Robert	Lansing	Wells Farg	PA
Navellier	'1201-1713	Wells Farg	ADX	85 bps - AD	4/16/2012	$141,951	8/31/2013	$157,630	Thomas	Snyder	Wells Farg	WA
Navellier	'1202-9073	Wells Farg	AWP	1% - ADV	8/22/2011	$113,136	8/31/2013	$130,453	Matthew	Crowder	Wells Farg	NC
Navellier	'1202-9718	Wells Farg	ADX	85 bps - AD	5/7/2013	$206,501	8/31/2013	$202,272	Demarcus/Ong/Tsou		Wells Farg	CA
Navellier	'1203-9245	Wells Farg	ASP	85 bps - AD	2/16/2012	$284,415	8/31/2013	$354,172	Richardson/Fitzgerald		Wells Farg	GA
Navellier	'1203-9387	Wells Farg	AWP	1% - ADV	8/10/2011	$249,280	8/31/2013	$290,180	Angela	Camel	Wells Farg	LA
Navellier	'1204-1160	Wells Farg	ASP	1% - ADV	5/22/2013	$120,000	8/31/2013	$115,984	William	Hudson	Wells Farg	IA
Navellier	'1205-7769	Charles Sch	ASP	80 bps - AD	11/21/2011	$140,000	8/31/2013	$185,691	Nancy	Skeans	Schneider I	PA
Navellier	'1206-1609	Wells Farg	ADX	85 bps - AD	5/29/2013	$114,450	8/31/2013	$191,159	Dominick	Ruiz	Wells Farg	CA
Navellier	'1208-5310	Wells Farg	ADX	85 bps - AD	3/28/2013	$96,821	8/31/2013	$100,772	Robert	Armstrong	Arvest Inve	OK
Navellier	'1210-2988	Wells Farg	AWP	90 bps - AD	8/29/2011	$218,267	8/31/2013	$250,241	Dominick	Giovannon	Wells Farg	NJ
Navellier	'1210-7524	Wells Farg	AWX	85 bps - AD	7/16/2013	$162,428	8/31/2013	$159,908	Carla	Barron	Wells Farg	TX
Navellier	'1212-5433	Wells Farg	AWP	1% - ADV	4/12/2012	$99,666	8/31/2013	$107,579	Terri	Osness	Wells Farg	AZ
Navellier	'1216-3615	Wells Farg	AWP	1% - ADV	10/6/2011	$152,397	8/31/2013	$196,871	Greg	Weggemar	Wells Farg	WI
Navellier	'1216-6848	Wells Farg	ASP	1% - ADV	2/13/2012	$199,748	8/31/2013	$267,297	Alan & Det	Sandar	Wells Farg	AK
Navellier	'676-12174	Fidelity	AWP	1% - ADV	7/12/2013	$123,649	8/31/2013	$167,245	Ryan	Joyce	Per Stirling	TX
Navellier	'1219-0838	Wells Farg	AGP	1% - ADV	5/19/2011	$322,534	8/31/2013	$218,770	Fred	Goduti	Wells Farg	NC
Navellier	'1219-7097	Wells Farg	AEP	1% - ADV	2/20/2013	$110,000	8/31/2013	$134,892	Clyde	Allen	Wells Farg	TN
Navellier	'1220-2741	Wells Farg	AWX	85 bps - AD	12/3/2012	$311,551	8/31/2013	$333,741	J. Patrick	Murtha	Wells Farg	MN
Navellier	'1222-7786	Wells Farg	AGP	1% - ADV	6/1/2011	$149,872	8/31/2013	$339,623	Richard	Eskind	Wells Farg	TN
Navellier	'1223-6257	Wells Farg	AEP	1% - ADV	7/29/2010	$99,735	8/31/2013	$112,185		Anderson (	Wells Farg	KS
Navellier	'12250633	Envestnet	AWP	FIXCO	9/8/2011	$284,808	9/8/2011	$284,808	Bill	Callis	Southwest	TX
Navellier	'12252118	Envestnet	AWP	FIXCO	10/4/2011	$46,317	10/4/2011	$46,317	Bill	Callis	Southwest	TX
Navellier	'1225-3820	Wells Farg	AWX	85 bps - AD	1/23/2012	$199,505	8/31/2013	$219,500	Thomas	Batson	Wells Farg	AZ
Navellier	'1227-3554	Wells Farg	ASP	85 bps - AD	7/17/2013	$281,629	8/31/2013	$273,822	Eddy	Olandj	Wells Farg	CA
Navellier	'1228-9400	Wells Farg	AWP	1% - ADV	2/21/2013	$234,256	8/31/2013	$238,260		Parker Ma	Wells Farg	PA
Navellier	'1229-1226	Wells Farg	ADX	85 bps - AD	8/22/2013	$200,000	8/31/2013	$196,522	John	Clement	Arvest Inve	OK
Navellier	'1229-8850	Wells Farg	AWP	1% - ADV	5/22/2013	$100,000	8/31/2013	$95,323	James	Wong	Wells Farg	CA
Navellier	'1232-1786	Stifel	ADX	85 bps - AD	9/26/2011	$427,023	8/31/2013	$550,448	Jerome	Gendron	Stifel Nicol	IL
Navellier	'1232-6163	Linsco Priv	AWP	FIXCO	5/1/2013	$160,689	8/31/2013	$254,552	John	Martfeld	LPL Financi	AR
Navellier	'1233-1098	Wells Farg	ADX	85 bps - AD	8/20/2013	$300,000	8/31/2013	$294,903	Sabin & Sabin		Wells Farg	MO
Navellier	'1235-1191	Wells Farg	AWP	1% - ADV	4/22/2013	$103,847	8/31/2013	$103,024	James	Wong	Wells Farg	CA
Navellier	'1236-3502	Wells Farg	AEX	85 bps - AD	4/19/2012	$99,897	8/31/2013	$112,607	Trotter / Rueckert / G		Wells Farg	IL
Navellier	'1236-5765	Wells Farg	AWP	1% - ADV	10/20/2011	$180,787	8/31/2013	$185,666	Mike	Zahler	Wells Farg	CO
Navellier	'1239-5354	Wells Farg	AEX	85 bps - AD	4/16/2013	$85,567	8/31/2013	$88,919	David	Sanders	Legacy We	ID
Navellier	'1239-9157	Wells Farg	ADX	85 bps - AD	12/13/2012	$251,373	8/31/2013	$293,227	D. Scott	Phillips	Wells Farg	UT
Navellier	'1241-7206	Wells Farg	AWP	1% - ADV	10/27/2010	$99,727	8/31/2013	$185,146	Summer	Bryan	Wells Farg	TN
Navellier	'1243-4125	Wells Farg	ADX	85 bps - AD	6/5/2012	$115,765	8/31/2013	$148,951	William	Hudson	Wells Farg	IA
Navellier	'1243-8420	Wells Farg	ADX	85 bps - AD	12/28/2011	$99,980	8/31/2013	$125,185	Donald	Turk	Wells Farg	NV
Navellier	'1244-1578	Wells Farg	AEX	85 bps - AD	6/5/2012	$99,852	8/31/2013	$123,472	Tom	Seidl	Wells Farg	MI
Navellier	'1246-9942	Wells Farg	ADX	85 bps - AD	12/7/2011	$183,067	8/31/2013	$302,891	Bulkley/Patrick		Wells Farg	OH
Navellier	'1249-0916	Wells Farg	AWP	1% - ADV	5/9/2013	$100,000	8/31/2013	$96,337	Ronald	Bonham	Wells Farg	OR
Navellier	'1251-1257	Wells Farg	AWP	1% - ADV	4/27/2012	$107,216	8/31/2013	$114,840	Frank	Delfino	Wells Farg	NJ
Navellier	'1251-9927	Wells Farg	AWP	1% - ADV	12/3/2012	$127,663	8/31/2013	$133,908	Jesse	Hibbetts	Wells Farg	TX
Navellier	'1252-7865	Wells Farg	AGP	1% - ADV	5/26/2011	$128,439	8/31/2013	$105,937	Christophe	Bell	Wells Farg	UT
Navellier	'1253-2832	Wells Farg	ADX	85 bps - AD	5/18/2012	$99,493	8/31/2013	$138,494	Lisa	Grimes	Wells Farg	IN

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Firm	Assets as of 9/13/2013	Date Mailed	9/16/2013 Calendar Days Since	Type	% of total	Cumulative Total
Wells Fargo	1,160,745,069.73	8/9/2013	38	dual	77.0%	77.0%
Raymond James	48,088,260.79	8/13/2013	34	dual	3.2%	80.2%
RBC Wealth Management	65,740,103.44	8/14/2013	33	dual	4.4%	84.5%
Stifel	36,036,489.78	8/19/2013	28	dual	2.4%	86.9%
Baird	1,391,199.96	8/26/2013	21	dual	0.1%	87.0%
Charles Schwab	38,884,798.95	8/26/2013	21	dual	2.6%	89.6%
Envestnet	3,582,712.00	8/26/2013	21	dual	0.2%	89.8%
Fidelity	51,870,579.35	8/26/2013	21	dual	3.4%	93.3%
Merrill Lynch	7,296,779.73	8/26/2013	21	dual	0.5%	93.7%
Morgan Stanley Smith Barney	3,360,221.87	8/26/2013	21	dual	0.2%	94.0%
Oppenheimer & Co	793,564.94	8/26/2013	21	dual	0.1%	94.0%
TD Ameritrade	5,176,758.92	8/26/2013	21	dual	0.3%	94.4%
Pershing/Lockwood	*55,032,343.56*	*Pershing will re-assign on notice of closing*		*wrap*	3.6%	98.0%
LPL Financial	*18,902,890.35*	*requires Due Diligence*		*wrap*	1.3%	99.3%
UBS	*11,104,682.99*	*Indian Tribe hasn't agreed*		*Inst*	0.7%	100.0%
total	1,508,006,456.36				100.0%	

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Attorneys for Defendants, NAVELLIER & ASSOCIATES, INC. and LOUIS NAVELLIER

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

SECURITIES AND EXCHANGE COMMISSION vs. NAVELLIER & ASSOCIATES, INC. and LOUIS NAVELLIER	Case No.: 17-cv-11633-DJC **Supplemental Declaration of Henry J. Kahrs, CPA/CFF/ABV, CMA, CFE**

I, Henry J. Kahrs, CPA/CFF/ABV, CMA, CFE declare as follows:

1. I am the Managing Partner of the Los Angeles and Orange County offices of The Global Forensics Unit at Baker Tilly, an international accounting and financial advisory firm. The Global Forensics Unit of Baker Tilly is a consulting firm specializing in forensic accounting, economic damage analysis, and business valuation. My practice involves all three of these arenas. I am a Certified Public Accountant (CPA), Certified Management Accountant (CMA), Certified Fraud Examiner (CFE), Accredited in Financial Forensics (CFF), and Accredited in Business Valuation (ABV). I also received a Master of Business Administration in Finance from California State University, Fullerton. I have been practicing for over 35 years and have been involved in numerous cases involving financial analysis, business valuation and disgorgement of profits. I have

15. Also, the SEC did not consider that the customers that trusted NAI with is investments actually made $211,196,301 as a result of investing with NAI. The gains are the reason that NAI earned its fees, not the false advertising. At a maximum, only the first quarter of any client should be subject to disgorgement, as any gains made by NAI were based on its above average performance for its clients.

16. Mr. Alex also calculated pre-judgement interest. I understand that Mr. Alex calculated the interest from the date of the payment. I further understand that the interest should be calculated from the date of filing, which is August 30, 2017. Since there were no profits, there is no interest.

17. A summary of the analysis is reflected on the SUMMARY Schedule. The actual result is a total profit (loss) of $(1,105,444).

18. I reserve the right to update my analyses if additional information becomes available.

I declare under the penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct.

Executed February 2, 2021 at Orange, California.

[redacted]

Henry J. Kahrs
CPA/CFF/ABV, CMA, CFE

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89804207	Miller, Jacl	12/6/2011	11/28/2012	Wells Farg	Matthew R	1% - ADV	$104,889.00	$0.00	$111,832.44	$6,943.44	6.51	$1,168.71	$525.92	$71.84	$32.33
89879046	Caroll, Jam	1/27/2012	10/14/2013	Wells Farg	David Brad	1% - ADV	$99,732.00	$30,000.00	$144,608.92	$14,876.92	11.84	$2,211.05	$994.97	$169.41	$76.23
89879864	Bryant, Ga	9/7/2011	1/11/2012	Raymond J	Wonnie Sh	1% - ADV	$99,870.00	$0.00	$101,339.01	$1,469.01	1.47	$310.71	$139.82	$62.93	$28.32
907673	Sirosky, Da	1/6/2012	12/2/2013	T D Amerit	Jim Miller	85 bps - AC	$130,000.00	$0.00	$150,510.93	$20,510.93	15.78	$2,039.50	$509.88	$251.27	$62.82
907699	Sluman, Th	12/14/2011	12/2/2013	T D Amerit	Jim Miller	85 bps - AC	$50,000.00	$0.00	$56,370.26	$6,370.26	13.83	$814.98	$203.76	$0.00	$0.00
910206	Sillyman, S	12/9/2011	12/2/2013	T D Amerit	Jim Miller	85 bps - AC	$50,000.00	$0.00	$56,071.04	$6,071.04	12.14	$812.65	$203.18	$23.29	$5.82
913182	Deats, W. (	12/7/2011	12/2/2013	T D Amerit	Jim Miller	85 bps - AC	$75,000.00	$44,752.44	$137,609.84	$17,857.40	15.41	$1,750.04	$437.52	$41.92	$10.48
97882150	Sherrod, Bi	6/8/2012	11/13/2013	Investmen	Scott Wint	1% - ADV	$465,822.34	$0.00	$537,277.09	$71,454.75	15.34	$6,557.80	$2,951.01	$0.00	$0.00
						Alle	$255,241,186.20		$297,942,201.85	$33,689,836.22		$4,289,956.86	$1,917,620.49	$285,034.14	$127,829.85
						Prem	$23,315,689.16								
							$278,556,875.36		Plus Premium>	$6,270,948.50					
									Total	$39,960,784.72					

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PROFITS RECEIVED AND FEES PAID BY CLIENTS WHO BECAME PREMIUM CLIENTS BETWEEN 8/10/2011 AND 9/30/2012

OS Received 03/16/2023

fees paid to NAT — net fee after license fee — fees — fees

Portfolio	Title	Start Date	Closure Date	FA Company	FA Name	Fee Type	Start Amount	Flows	Closure Amount	Gain / Loss	Net IRR	Gross Revenue	Net Revenue	Gross First Qtr	Net First Qtr
002777	Williams, J.	8/29/2011	12/2/2013	Benjamin E	David Hans	FIXCO	$102,000.00	$0.00	$119,984.12	$17,984.12	17.63	$2,144.62	$631.15	$0.00	$0.00
002942	Karsten, Gl	10/11/2011	12/2/2013	Benjamin E	David Hans	FIXCO	$327,995.00	$1,126.66	$397,984.94	$68,863.28	18.55	$6,731.81	$1,981.17	$677.82	$199.48
003007	Smith, Jeff	10/28/2011	1/2/2013	Benjamin E	Russell Har	FIXCO	$166,000.00	$100,329.21	$287,332.40	$21,003.19	10.12	$2,716.97	$799.60	$0.00	$0.00
003015	Sampsell, (	10/27/2011	12/2/2013	Benjamin E	David Hans	FIXCO	$347,375.00	$0.00	$404,914.55	$57,539.55	16.56	$6,755.91	$1,988.27	$603.54	$177.62
003023	Scoliere, Lı	10/28/2011	8/29/2013	Benjamin E	Russell Har	FIXCO	$200,000.00	-$98,000.00	$129,616.32	$27,616.32	14.48	$3,571.03	$1,050.96	$0.00	$0.00
003197	Irvin, Mark	1/19/2012	12/2/2013	Benjamin E	David Hans	FIXCO	$275,000.00	$0.00	$293,287.32	$18,287.32	12.59	$4,493.64	$1,322.48	$511.32	$150.48
003221	Bredemann	2/1/2012	12/2/2013	Benjamin E	David Hans	FIXCO	$1,000,000.00	$0.00	$1,123,488.86	$123,488.86	12.35	$16,274.69	$4,789.64	$0.00	$0.00
003262	Heroty, Mi	2/28/2012	12/2/2013	Benjamin E	David Hans	FIXCO	$234,256.00	$0.00	$258,962.87	$24,706.87	10.92	$3,603.07	$1,060.39	$0.00	$0.00
003270	Dorlan, Th	2/28/2012	12/2/2013	Benjamin E	David Hans	FIXCO	$150,000.00	$0.00	$165,342.33	$15,342.33	10.60	$2,304.47	$678.20	$0.00	$0.00
003288	Heafey, Ka	3/2/2012	12/2/2013	Benjamin E	David Hans	FIXCO	$68,513.00	$0.00	$75,972.53	$7,459.53	10.82	$1,049.85	$308.97	$0.00	$0.00
003296	Walls, Pete	3/1/2012	12/2/2013	Benjamin E	David Hans	FIXCO	$108,000.00	$0.00	$119,615.27	$11,615.27	10.64	$1,658.87	$488.20	$0.00	$0.00
006124	Crosby Fan	12/7/2011	12/2/2013	T D Amerit	Jim Miller	85 bps - AC	$50,000.00	$57,000.00	$121,745.13	$14,745.13	14.22	$1,465.71	$366.44	$27.95	$6.99
006132	Edward & I	12/7/2011	12/2/2013	T D Amerit	Jim Miller	85 bps - AC	$60,000.00	$0.00	$67,629.86	$7,629.86	12.72	$982.19	$245.56	$33.53	$8.38
008225	James Cror	12/2/2011	12/2/2013	T D Amerit	Jim Miller	85 bps - AC	$75,000.27	$55,000.00	$149,474.09	$19,473.82	16.21	$1,865.94	$466.50	$47.16	$11.79
010544	Thompson,	12/2/2011	12/2/2013	T D Amerit	Jim Miller	85 bps - AC	$200,000.77	$57,445.00	$302,097.61	$44,651.84	17.79	$4,017.84	$1,004.47	$125.75	$31.44
021502	Moore, Ch.	2/9/2012	10/22/2013	Morgan St	Christophe	1% - ADV	$73,858.32	$0.00	$82,904.18	$9,045.86	12.25	$1,057.30	$475.79	$103.20	$46.44
065069	Johanna L.	2/21/2012	10/22/2013	Morgan St	Lorn Lymai	1% - ADV	$198,633.68	-$12,286.31	$208,129.85	$21,782.28	11.27	$3,256.72	$1,465.53	$212.24	$95.51
10191000	Centercare	6/4/2012	10/14/2013	Wells Farg	Brian Boll	1% - ADV	$683,830.74	$461,180.75	$1,302,248.36	$157,236.87	15.81	$14,576.36	$6,559.36	$485.78	$218.60
10212840	Drapeau, R	12/20/2011	10/14/2013	Ameriprise	Bruce Bevi	1% - ADV	$525,857.00	-$82,000.40	$512,813.02	$68,956.42	14.14	$9,275.25	$4,173.86	$0.00	$0.00
10265573	Kennedy, E	1/12/2012	10/14/2013	Wells Farg	Steven Par	1% - ADV	$199,516.00	$62,500.00	$291,796.86	$29,780.86	13.80	$3,890.68	$1,750.81	$431.83	$194.32
10465988	Detuncq, C	1/4/2012	9/17/2012	Wells Farg	Shawn Der	1% - ADV	$99,683.00	$0.00	$108,147.01	$8,464.01	8.49	$756.01	$340.21	$237.60	$106.92
10555133	Mains, Gre	2/10/2012	10/14/2013	Wells Farg	Matthew R	1% - ADV	$341,193.94	$0.00	$375,841.91	$34,647.97	9.92	$5,754.47	$2,589.51	$448.69	$201.91
10572990	Morrow, C	10/27/2011	10/14/2013	Wells Farg	Cameron N	1% - ADV	$99,731.00	$0.00	$105,817.41	$6,086.41	13.63	$1,972.38	$887.59	$177.60	$79.92
10625551	Alexander,	1/10/2012	10/14/2013	Wells Farg	Richard Cis	1% - ADV	$105,936.00	-$12,500.00	$103,733.40	$10,297.40	9.44	$1,902.65	$856.18	$235.09	$105.79
10741031	Stephen Sr	4/9/2012	10/3/2013	Stifel Nicol	Dave West	85 bps - AC	$169,348.00	$0.00	$191,330.12	$21,982.12	13.89	$2,609.33	$1,174.20	$379.41	$170.73
10747951	Andoga Fa	2/28/2012	10/14/2013	Wells Fargo Advisors		85 bps - AC	$349,762.02	$98,315.51	$514,388.82	$66,311.29	30.41	$1,176.22	$529.30	$305.80	$137.61
10828038	Smith, Pau	7/6/2012	10/14/2013	Wells Farg	Eric Smith	1% - ADV	$243,638.28	-$120,000.00	$150,339.22	$26,700.94	11.47	$3,162.52	$1,423.13	$559.17	$251.63
11096204	Stumer, Irv	3/22/2012	10/14/2013	Wells Farg	Dominick (	90 bps - AC	$141,956.21	-$8,000.00	$148,613.18	$14,656.97	10.71	$2,128.04	$957.63	$0.00	$0.00
11130003	Smith, Leo	11/11/2011	10/14/2013	Wells Farg	John Adam	1% - ADV	$92,804.00	$0.00	$107,259.17	$14,455.17	14.71	$1,603.26	$721.47	$122.04	$54.92
11251636	Greater An	10/27/2011	10/14/2013	Wells Farg	Matthew R	1% - ADV	$146,956.00	-$1,000.00	$166,908.08	$20,952.08	14.41	$2,753.44	$1,239.05	$261.70	$117.77
11267905	Dexter, Jar	11/17/2011	10/14/2013	Wells Farg	Dwight Ens	1% - ADV	$330,258.00	-$90,956.00	$253,803.17	$14,501.17	13.21	$6,045.54	$2,720.50	$398.12	$179.15
11323328	Robert M.	10/19/2011	11/28/2011	RBC Wealtl	Tim R Bock	1% - ADV	$299,095.00	$0.00	$298,112.47	-$982.53	-0.33	$0.00	$0.00	$0.00	$0.00
11383997	Boivin, Gre	9/22/2011	9/16/2013	Wells Farg	Beth Spark	1% - ADV	$137,963.00	$0.00	$168,202.50	$30,239.50	21.92	$3,046.14	$1,370.78	$0.00	$0.00
11592117	Knue, Thac	12/21/2011	5/24/2013	LPL Financi	Zack Alkha	FIXCO	$133,948.00	$0.00	$154,456.74	$20,508.74	15.31	$2,173.07	$977.90	$0.00	$0.00
11646962	Kirkpatrick	11/15/2011	10/14/2013	Wells Farg	David Brad	1% - ADV	$124,808.00	$100,000.00	$250,903.72	$26,095.72	15.29	$3,273.78	$1,473.19	$157.29	$70.78
11740382	Ansley T. T	7/3/2012	11/13/2013	Investmen	Bart Jones	1% - ADV	$162,264.23	$34,742.29	$179,911.57	-$17,094.95	11.86	$2,100.88	$945.39	$390.14	$175.56
11818721	SR & SE Sc	6/27/2012	10/14/2013	Wells Farg	Richard Cis	1% - ADV	$229,181.26	$92,811.09	$352,840.25	$30,847.90	14.38	$3,326.34	$1,496.87	$0.00	$0.00
11882997	Meadows,	2/8/2012	10/14/2013	Wells Farg	Roger Vlac	1% - ADV	$99,676.25	-$30,705.62	$76,890.20	$7,919.57	10.01	$1,465.64	$659.54	$142.00	$63.90
11958035	Eckhoff, Cl	10/27/2011	10/14/2013	Wells Farg	Steve Perg	1% - ADV	$249,686.00	$0.00	$290,295.40	$40,609.40	16.26	$5,141.91	$2,313.87	$444.65	$200.09
12029073	Beckett, W	8/19/2011	10/14/2013	Wells Farg	Matthew C	1% - ADV	$113,136.00	$0.00	$133,785.25	$20,649.25	18.25	$2,589.69	$1,165.35	$123.98	$55.79
12102988	Asciutto, Jc	8/26/2011	10/14/2013	Wells Farg	Dominick (	90 bps - AC	$218,267.00	$0.00	$256,626.19	$38,359.19	17.57	$4,781.17	$2,151.52	$197.34	$88.80
12125433	Lewis, Kay	4/11/2012	10/14/2013	Wells Farg	Terri Osne	1% - ADV	$99,666.21	$0.00	$110,322.35	$10,656.14	10.69	$1,523.17	$685.42	$217.85	$98.03
12163615	Armstrong	10/5/2011	10/14/2013	Wells Farg	Greg Wege	1% - ADV	$152,397.00	$20,000.00	$201,890.59	$29,493.59	18.07	$3,590.92	$1,615.91	$363.25	$163.46
12166848	The Alaska	2/10/2012	10/14/2013	Wells Farg	Alan & Det	1% - ADV	$199,747.80	$46,000.00	$275,551.63	$29,803.83	12.19	$3,155.92	$1,420.17	$262.68	$118.21
12173103	Heiskell Jo	9/20/2011	8/19/2013	Wells Farg	Sam Cricht	1% - ADV	$401,798.00	$56,012.71	$515,698.50	$57,887.79	19.70	$9,219.29	$4,148.68	$0.00	$0.00
12316949	Fahring, Di	12/9/2011	8/28/2013	Wells Farg	Michael W	1% - ADV	$77,581.00	$60,635.84	$147,981.82	$9,764.98	12.58	$1,654.17	$744.39	$42.51	$19.13
12365765	Hauser, To	10/19/2011	10/14/2013	Wells Farg	Mike Zahle	1% - ADV	$180,787.00	-$20,000.00	$190,378.47	$29,591.47	17.35	$3,647.83	$1,641.53	$361.57	$162.71
12402618	McKnelly, I	8/15/2012	8/12/2013	Wells Farg	Brooks Cor	1% - ADV	$104,911.52	$25,000.00	$139,179.04	$9,267.52	8.77	$1,223.39	$550.53	$131.86	$59.34
1251125_	Forlenza, R	4/26/2012	10/14/2013	Wells Farg	Frank Delfi	1% - ADV	$107,215.65	$0.00	$117,751.73	$10,536.08	9.83	$1,583.85	$712.73	$190.41	$85.68
12559119	Jones, Mar	11/23/2011	9/6/2013	Wells Fargo Advisors		1% - ADV	$207,151.00	-$9,508.56	$232,783.57	$35,141.13	17.14	$4,124.38	$1,855.98	$209.99	$94.50
12732319	Jon Tkac, I	8/29/2011	10/14/2013	Wells Farg	James Chu	1% - ADV	$456,841.00	$0.00	$532,723.64	$75,882.64	16.84	$10,191.92	$4,586.35	$400.52	$180.23
12747081	Orion Inve	8/30/2011	10/14/2013	Wells Fargo Advisors		1% - ADV	$499,674.00	$0.00	$595,935.76	$96,261.76	19.35	$8,283.71	$3,727.67	$424.38	$190.97
12753350	Harel, Tho	9/26/2011	8/20/2013	Wells Farg	Brian Hill	1% - ADV	$229,975.00	$0.00	$263,871.30	$33,896.30	14.74	$4,954.48	$2,229.51	$0.00	$0.00

OS Received 03/16/2023

EXHIBIT 32

OS Received 03/16/2023

RESERVED

OS Received 03/16/2023

EXHIBIT 33

OS Received 03/16/2023

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

SECURITIES AND EXCHANGE COMMISSION, Plaintiff, v. NAVELLIER & ASSOCIATES INC., LOUIS NAVELLIER, Defendants.	Case no. 17-cv-11633 DJC

NOTICE OF AMENDED AND SUPPLEMENTAL APPEAL

Notice is hereby given that Navellier & Associates, Inc. and Louis Navellier, Defendants in the above-captioned action, amend and supplement their previously filed June 4, 2020 appeal to the United States Court of Appeals for the First Circuit from the "Final Judgment" entered June 2, 2020 (Docket No. 295) presently pending as Appeal No. 20-1581, to further and additionally appeal, as part of pending Appeal No. 20-1581, the Amended Final Judgment (Docket No. 361-1 entered, after remand, on September 21, 2021) and from the Amended Disgorgement Findings of Fact and Conclusions of Law (Docket No. 361 also entered September 21, 2021), and from all orders subsumed therein, including the Partial Summary Judgment Order filed on February 13, 2020, (Docket No. 252), the companion Order Dismissing Counts Three and Four filed March 26, 2020 (Docket No. 266), the Order denying reconsideration/ new trial filed on April 2, 2020 (Docket No. 270), and the June 2, 2020, February 13, 2020, March 26, 2020 and April 2, 2020 orders, and orders Docket Nos. 294, 291, 272, 229, 217, 215, 209, 175, 165, the March 13, 2019 electronic order, Docket No. 143, the February 19, 2019 electronic order, Docket No. 140, the February 19, 2019 electronic order, Docket No. 125, Docket No. 108, Docket No. 76, Docket No. 3, and certain orders and findings after May 24, 2020, including Docket Nos. 294, 295, 323, 331, 332, 335, 336, 337, 341, 342, 357, 359, 360, 361, and 361-1.

Respectfully Submitted

Dated: October 18, 2021 By: /s/Samuel Kornhauser

Samuel Kornhauser

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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

SECURITIES AND EXCHANGE COMMISSION, Plaintiff, v. NAVELLIER & ASSOCIATES INC., LOUIS NAVELLIER, Defendants.	Case no. 17-cv-11633 DJC

NOTICE OF AMENDED AND SUPPLEMENTAL APPEAL

Notice is hereby given that Navellier & Associates, Inc. and Louis Navellier, Defendants in the above-captioned action, pursuant to 28 U.S.C. §1292(a)(1), appeal the District Court's September 13, 2022 Order (Docket No. 382) denying Defendants' motion for amendment of disgorgement findings of fact and conclusions of law and denying Defendants' motion to alter or amend amended final judgment. A copy of said Order (Docket No. 382) is attached hereto as Exhibit 1. Navellier & Associates, Inc. and Louis Navellier also hereby appeal from the portion of the September 13, 2022 Order (Docket No. 385) denying their motion for stay of judgment pending appeal, including denial of their motion to stay/enjoin the SEC from proceeding with its administrative proceedings against Defendants (SEC Administrative Proceeding No. 3-19826) and denial of Defendants' motion for stay without bond or for stay with a bond or security of at most $27,500. A copy of said Order (Docket No. 385) is attached hereto as Exhibit 2.

The District Court has not, pending further briefing, ruled on Defendants' motion for stay of judgment pending posting of a supersedeas bond in an amount between $24,681 and $33,000,000, and Defendants are not appealing, at this time, that portion of the Court's Order (Docket No. 385) which denies without prejudice Defendants' motion for stay upon posting of a supersedeas bond of some amount (to be determined) between $24,681 and $33 Million.

These appeals are in addition to Appeal No. 20-1581 and in addition to Appeal No. 21-1857 now pending in the United States Court of Appeals for the First Circuit.

Respectfully Submitted

Dated: September 23, 2022 By:

/s/Samuel Kornhauser
Samuel Kornhauser

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EXHIBIT 34

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1

3/13/17 B-03078 Navellier
10:00 Phone Interview w/ Ken Zammu

SEC
(BD) Bill Donahue
Kerry Alley
Marc Jones
James Carpest.

(KZ) Ken Zammu
(LC) Luke Cadigan
(CM) Claire Metcalfe
(PL) Paul Lonergan

Bill Donahue went through the standard disclosures pursuant to 1974 Privacy Act – Form 1662
— Share information w/authorities
— Voluntary
— Must be truthful and not misleading
— Right to an attorney (LC - Cooley).
KZ Consents to interview

First introduced to Virtus product May 2010 - F-Squared (F2) gave them names of companies wanted to use the product as a sub-advisor. Names were Navellier & Cadency.

(A.S.S.) Had been using the AlphaSector strategy since 2009 - through F2.

2

Initially placing trades ~~[illegible]~~
in house.

Didn't want to do that
anyway - Decided to go
w/ Navellier. Could also select
Adhesion but only used
Navellier..

More familiar w/ Navellier
as an Investment Co.

Paula Bode = original contact
Email from Kelly Howe but
PB was primary. May have
used emails to others

Assumed wholesalers to assist
Probably had internal +
External w/s.

Marketing Aegis Sect. Premium
Value. Slide of different
products. List of diff. strategies
but only used the one

(3)

Already understood A.S.S.
Historical performance. It was
apparent it was a hypothetical
strat. up until start date
of around 2008

11% Guardriven
9 sectors S+P 500
ETF was included

It was explained that
If traded in this manner
returns would be what 2001–
2008 returns. Nothing traded 2001-08.

It wasn't real it wasn't live

Talked about an Index they
(FS) created:

Don't remember when the index
started
Morning Star direct work sheet

Assumed up until 2008 perform.
was hypothetical because
comp didn't exist before 2008

4

Had already used it for over a year. Completely how it worked. It was more strat to use Navellier

Assumed it was back tested
The original presentation by F2 was that it was hypothetical

Howard Present
George McLellan

Focused on how strat. would behave going forward. Didnt care about back testing.

Pretty sure some material stuff stated something about returns not being live They didnt think it was live back tested 2001. Corp didnt exist until 2008.

Drinks w/ Neill Mtg in Boston
Not an indepth understanding but it was a strat. being traded. A persons idea and product create based on idea.

Trainings: No training provided
it was only the one product
& had already been using it for
a year

Wealth Manager = sell concept
and how it fit into a portfolio

was Less than 5% of their portfolio
would send clients a Navellier
document from website
or a presentation from House

Assumed material was updated
quarterly but not sure. It
was never 10% of someones
portfolio. A small portion of
portfolios

Sure there were questions about
past performance and they
would tell ~~[illegible]~~ them it was
hypothetical until 2005

6

If someone asked about a particular strategy they would send a fact sheet!

Assuming someone asked about past performance but can't remember anything specific

Explained Tactical - ability to get diversify recommend less volatility. Investors were concerned w/ traditional approach riding it out. Seeing general trend shifts clients had previously experienced down turns and wanted a more diversified strategy.

When you sell something on performance you are putting yourself into a box if it doesn't go well. Didn't focus on performance.

2013 - first put a client into TSS.
Converted over to a new product

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Were about 20-25 clients
invested in FR. Converted over
to Verio

Explained similarly to clients they
used a 3rd party to manage it

FR didn't want to be in the client
business. Wanted to give it to
advisors.

Presentations to clients would be
FR or Verio materials

~~Clear~~
Clients would request information
on all the strategies they were
interested in. Materials that
were sent included whitepapers
on benefits and concept of buy
and hold not best way to do it

Unusual to put clients in
contact with Narelle.

12

In August or Sept 2013
Navillier sold Verio back to FR

Did not move forward w/ that.
thinks FR assumed they would
convert back to FR.

Never moved forward w/ that.
Exited the strategy at end of
1/2013. Shifted to a Congress
Wealth product

Call ended at 11:53

EXHIBIT 35

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PAGES: 1-256
EXHIBITS: 1-16

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

SECURITIES AND EXCHANGE COMMISSION

Plaintiff

Civil Action No. 17-cv-11633

v.

NAVELLIER & ASSOCIATES, INC., and

LOUIS NAVELLIER

Defendants

VIDEOTAPED DEPOSITION OF

SECURITIES AND EXCHANGE COMMISSION

by and through its designee

ROBERT B. BAKER, JD, CFA

Thursday, March 28, 2019, 9:35 a.m.

BROOKS & DERENSIS

111 Devonshire Street

Boston, Massachusetts

----- Sonya Lopes, RPR, CSR -----

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business was sold would not have stopped having their business with F-Squared or with Navellier, even if they knew the truth. But some would have stopped.

And we needed to get some disgorgement for that, at least, you know, as a reasonable basis -- this is what we articulated to them -- and that that approximation was around 10 percent for what we could recommend.

* Q. And how did you arrive at the notion that 10 percent would have left or -- if they knew about the alleged false track record?

MR. JONES: Objection. That answer may involve opinion work product. You can answer only to the extent that that was communicated to Arent Fox or another outside party.

MR. KORNHAUSER: Well, you know, just for the record, there's a selective enforcement claim here. And part of that selective enforcement is that the SEC is acting in bad faith.

So I believe that we're entitled to get the reasons for the SEC acting the way it did if you're going to defend and say that there was no bad motive or improper purpose. So I'm entitled to

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inquire into what the purpose was and what --

MR. JONES: Your entitled to inquire into facts. That's what the judge said. The judge said that -- and, in fact, instructed the Commission to protect against --

MR. KORNHAUSER: They didn't --

MR. JONES: Says "The SEC's counsel may protect against the disclosure of work product or privileged information in the 30(b)(6) deposition by interposing appropriate objections and giving instructions on a question-by-question basis." We're following what the judge said was supposed to happen here, Sam.

MR. KORNHAUSER: Well, for once, we disagree. Could you read the pending question back, please?

* (Question read back)

MR. JONES: Again, I instruct you to answer only insofar as the thinking process of the SEC was communicated outside the SEC, either to Arent Fox or to other third parties or other parties because the internal process is opinion work product and deliberative process privilege.

A. Okay. So I think what I just described in

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terms of what we communicated to them is my recollection, you know, as to how we got to the 10 percent being a reasonable approximation. It accepted the notion -- and this is where I couldn't precisely recall if we shared this with the law firm. We certainly would have, if they'd asked; and we may have. So I'll give you this information.

It was an articulation with respect to advertising that the older -- you know, there's academic papers out there -- the older a track record gets, the less important it is as a general matter.

Now, there may be some factors with F-Squared that are unique to that. But it certainly is something that's out there, you know, in the industry.

So we accepted the notion of that for purposes of coming to settlement that over time, the fake and inflated track record -- which essentially stops in, like, September of 2008 -- becomes less important.

So when you fast forward to five years, six years, seven years later, whatever it was -- I guess it was about five years in this case -- it's

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not nearly as important as it would have been in, say, October of 2008 or November of 2008, when you're sitting in September 2013. An investor might care more about one year's performance, less than, say, they would five years or ten years.

Q. So did you think that there was justification for discounting the sales price 90 percent?

MR. JONES: Objection. What Mr. Baker thought or what the SEC thought is opinion work product.

MR. KORNHAUSER: You're instructing him not to answer?

MR. JONES: I am instructing him not to answer.

Q. Okay.

A. But was your question at one point whether we shared our beliefs or our thoughts with counsel? I thought it was. I can answer that.

Q. No. I understand. But when you're sharing your thoughts and beliefs, did you believe what you were saying? Did you think that it was -- there was a factual or real basis for discounting the 14 million by 90 percent?

EXHIBIT 36

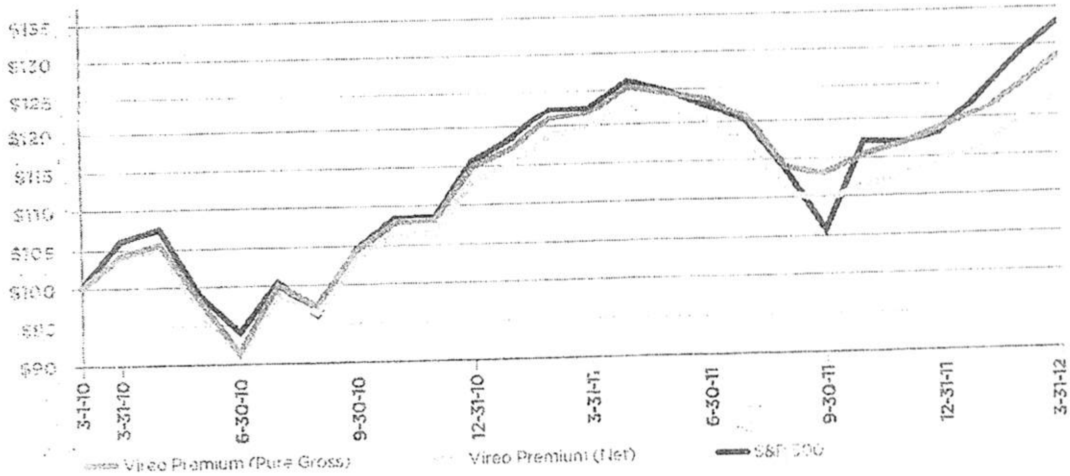
OS Received 03/16/2023

Vireo Premium Performance

Supplemental Information

Vireo Premium Performance

Wrap Composite Growth of 100 Dollars from 3/1/2010 - 3/31/2012



Source: Navellier & Associates, Zephyr StyleADVISOR.

Vireo Premium Performance

Performance Returns

Annualized Returns through 3/31/12	Vireo Premium Wrap Composite (Pure Gross)	Vireo Premium Wrap Composite Net	S&P 500 Index
1st Quarter	8.30%	7.76%	12.59%
Year-to-Date	8.30%	7.76%	12.59%
Trailing 1 Year	5.52%	3.23%	8.54%
Since Inception (3/1/10)	12.80%	10.60%	14.71%
Cumulative Return (3/1/10-3/31/12)	28.52%	23.35%	33.10%

Yearly Returns

	Vireo Premium Wrap Composite (Pure Gross)	Vireo Premium Wrap Composite Net	S&P 500 Index
2011	3.19%	1.13%	2.11%
2010 (10 months)	15.00%	13.18%	15.77%

Source: Navellier & Associates, FactSet, Zephyr StyleADVISOR.
All returns over 1 year are annualized
[1] Annualized standard deviation since inception
[2] Calculated since inception vs. S&P 500 Index

Return/Risk Analysis

3/1/2010 to 3/31/2012	Vireo Premium Wrap Composite (Pure Gross)	Vireo Premium Wrap Composite Net	S&P 500 Index
Best Month	9.79%	9.27%	10.93%
Worst Month	-7.79%	-7.82%	-7.99%
% of Up Month	68%	68%	64%
% of Down Month	32%	32%	36%
Maximum Drawdown (%)	-13.67%	-13.72%	-16.26%

Comparative Return/Risk Analysis

3/1/2010 to 3/31/2012	Vireo Premium Wrap Composite (Pure Gross)	S&P 500 Index
Alpha[2]	2.22%	0.00%
Beta[2]	0.71%	1.00%
Standard Deviation[1]	14.07%	17.05%
R-Squared[2]	75.01%	100.00%
Up Capture Ratio	76.00%	100.00%
Down Capture Ratio	77.40%	100.00%

The information shown above represents the actual composite data of all wrap Vireo Premium accounts. The composite's inception is March 1, 2010. (For a complete description of the composite, please refer to the full disclosure statement on the next page.)

Potential investors should consult with their financial advisor before investing in any investment product. Investment in equity strategies involves substantial risk and has the potential for partial or complete loss of funds invested. Graphs are for illustrative and discussion purposes only. Results presented do not necessarily indicate future performance. All performance figures include reinvestment of dividends, interest, and other income. Please read important disclosures at the end of this presentation.

VIREO PREMIUM WRAP COMPOSITE
Reporting Currency U.S. Dollar

Year	Firm Assets ($M)	Composite Assets ($M)	Percentage of Firm Assets	Number of Accounts	Composite Pure Gross Return (%)	Composite Net Return (%)	S&P 500 Index Return (%)	Composite Dispersion (%)
2011	2,719	23	<1%	99	3.19	1.13	2.11	0.14
2010[1]	2,365	3	<1%	21	15.00	13.18	15.77	N/A[2]

[1] *Performance calculations for the period ended December 31, 2010 only includes 10 months of history.*
[2] *N/A information is not statistically meaningful due to an insufficient number of portfolios in the composite for the entire year.*

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1. **Compliance Statement -** Navellier & Associates, Inc. claims compliance with the Global Investment Performance Standards (GIPS®) and has prepared and presented this report in compliance with GIPS standards. Navellier & Associates, Inc. has been independently verified for the periods January 1, 1995 through September 30, 2011 by Ashland Partners & Company LLP. Verification assesses whether (1) the firm has complied with all the composite construction requirements of the GIPS standards on a firm-wide basis and (2) the firm's policies and procedures are designed to calculate and present performance in compliance with the GIPS standards. The Vireo Premium Wrap Composite has been examined for the periods March 1, 2010 through September 30, 2011. The verification and performance examination reports are available upon request.

2. **Definition of Firm -** Navellier & Associates, Inc. is a registered investment adviser established in 1987. Navellier & Associates, Inc. manages a variety of equity assets for primarily U.S. and Canadian institutional and retail clients. The firm's list of composite descriptions as well as information regarding the firm's policies for valuing portfolios, calculating performance, and preparing compliant presentations are available upon request.

3. **Composite Description -** The Vireo Premium Wrap Composite includes all discretionary Vireo Premium equity accounts that are charged a wrap fee and are managed with similar objectives for a full month, including those accounts no longer with the firm. The strategy attempts to track an index known as the AlphaSector Premium Index ("Index"). Navellier & Associates, Inc. pays a licensing fee to F-Squared Investments, Inc. to provide a model of the Index. The Index is quantitatively driven and applies a weekly trading protocol to nine Select Sector SPDRs and an exchange traded fund ("ETF") representing 1-3 month Treasuries. Note that the Vireo Premium accounts managed by Navellier & Associates, Inc. may invest in a cash equivalent, such as money market funds, in place of the 1-3 month Treasury ETF. The index has the potential to be invested in any combination of the nine SPDRs including all nine at the same time, a combination of sector SPDRs and the Treasury ETF, or can be 100% invested in the Treasury ETF. There is no guarantee that Navellier will achieve returns similar to the index, and in fact the strategy's returns may vary from the index due to the timing of trades and after fees are taken into account, including management fees, brokerage or transactions costs, or other administrative or custodian fees. Performance is calculated on a "time-weighted" and "asset-weighted" basis. Performance figures that are net of fees take into account advisory fees and any brokerage fees or commissions that have been deducted from the account. "Pure" gross-of-fees returns do not reflect the deduction of any trading costs, fees, or expenses, and are presented only as supplemental information. Performance results are total returns and include the reinvestment of all income, including dividends. The composite was created March 1, 2010. As of April 2012, the Vireo AlphaSector Premium Wrap Composite has been renamed the Vireo Premium Wrap Composite. Valuations and returns are computed and stated in U.S. Dollars.

4. **Management Fees -** The management fee schedule for accounts ranges from 75 to 100 basis points, depending on account size and brokerage selected. Some incentive fee, fixed fee, and fulcrum fee accounts may be included. Fees are negotiable, and not all accounts included in the composite are charged the same rate. Bundled fee accounts make up 100% of the composite for all periods shown. Fee schedules are provided by independent sponsors and are available upon request from the respective sponsor. The bundled fees include custody, trading expenses, and other expenses associated with the management of the account. The client is referred to the firm's Form ADV Part 2A for a full disclosure of the fee schedule.

5. **Composite Dispersion -** If applicable, the dispersion of annual returns is measured by the standard deviation across asset-weighted portfolio returns represented within the composite for the full year.

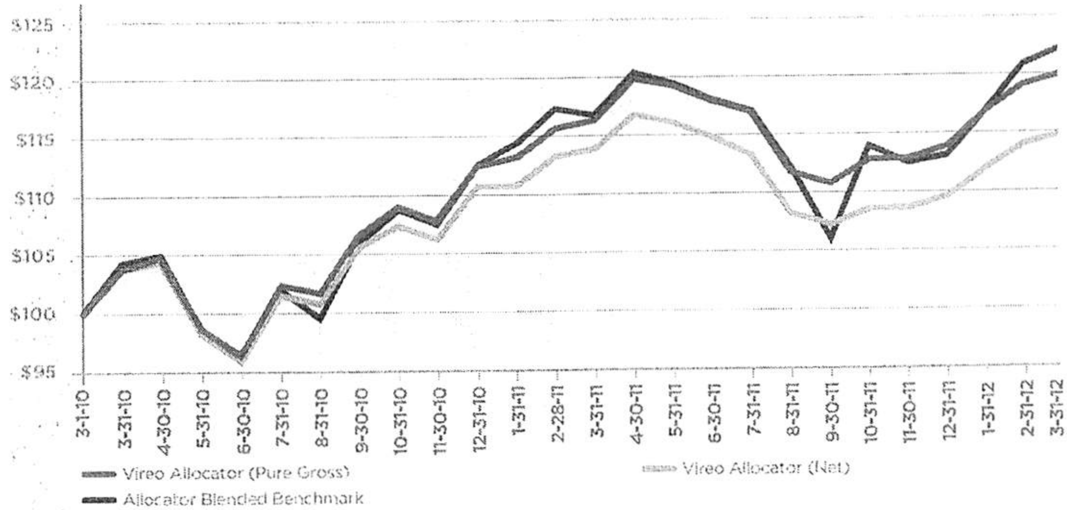
6. **Benchmark -** The primary benchmark for the composite is the S&P 500 Index. The S&P 500 consists of 500 stocks chosen for market size, liquidity and industry group representation. It is a market value weighted index with each stock's weight in the index proportionate to its market value. The reported returns reflect a total return for each quarter inclusive of dividends. The asset mix of the composite may not be precisely comparable to the presented indices. Presentation of index data does not reflect a belief by the Firm that the S&P 500 Index, or any other index, constitutes an investment alternative to any investment strategy presented in these materials or is necessarily comparable to such strategies.

7. **General Disclosure -** The three-year annualized standard deviation is not presented because 36 months of history is not available. Actual results may differ from composite results depending upon the size of the account, custodian related costs, the inception date of the account and other factors. ***Performance results presented herein do not necessarily indicate future performance. Investment in equity strategies involves substantial risk and has the potential for partial or complete loss of funds invested. Results presented include reinvestment of all dividends and other earnings.*** The securities identified and described do not represent all of the securities purchased, sold, or recommended for client accounts. It should not be assumed that any securities recommendations made by Navellier in the future will be profitable or equal the performance of securities made in this report. A list of recommendations made by Navellier & Associates, Inc. for the preceding twelve months is available upon request.

Navellier & Associates, Inc.
One East Liberty, Suite 504
Reno, Nevada 89501
800-887-8671

Vireo Allocator Performance

Growth of 100 Dollars from 3/1/2010 - 3/31/2012



Vireo Allocator Performance

SUPPLEMENTAL INFORMATION

Vireo Allocator Performance

Performance Returns

Annualized Returns through 3/31/12	Vireo Allocator Wrap Composite (Pure Gross)	Vireo Allocator Wrap Composite Net	Allocator Blended Benchmark[2]
1st Quarter	5.58%	4.99%	8.31%
Year-to-Date	5.58%	4.99%	8.31%
Trailing 1 Year	3.36%	1.06%	4.83%
Since Inception (3/1/10)	9.24%	6.96%	10.22%
Cumulative Return (3/1/10-3/31/12)	20.22%	15.05%	22.47%

Return/Risk Analysis

3/1/2010 to 3/31/2012	Vireo Allocator Wrap Composite (Pure Gross)	Vireo Allocator Wrap Composite Net	Allocator Blended Benchmark[2]
Best Month	6.33%	5.96%	7.38%
Worst Month	-5.86%	-5.87%	-6.07%
% of Up Month	64%	64%	56%
% of Down Month	36%	36%	44%
Maximum Drawdown (%)	-8.14%	-8.20%	-11.91%

Yearly Returns

	Vireo Allocator Wrap Composite (Pure Gross)	Vireo Allocator Wrap Composite Net	Allocator Blended Benchmark[2]
2011	1.19%	-1.05%	0.43%
2010 (10 months)	12.53%	10.75%	12.59%

Source: Navellier & Associates, FactSet, Zephyr StyleADVISOR.
All returns over 1 year are annualized.
[1] Annualized standard deviation since inception
[2] Allocator Blended Benchmark: 45% S&P 500, 25% MSCI World ex U.S., 30% U.S. Aggregate Bond Index
[3] Calculated since inception vs. Allocator Blended Benchmark

Comparative Return/Risk Analysis

3/1/2010 to 3/31/2012	Vireo Allocator Wrap Composite (Pure Gross)	vs. Allocator Blended Benchmark[2]
Alpha[3]	2.05%	0.00%
Beta[3]	0.69%	1.00%
Standard Deviation[1]	9.56%	12.33%
R-Squared[3]	79.97%	100.00%
Up Capture Ratio	73.10%	100.00%
Down Capture Ratio	69.10%	100.00%

VIREO ALLOCATOR WRAP COMPOSITE

Reporting Currency U.S. Dollar

Year	Firm Assets ($M)	Composite Assets ($M)	Percentage of Firm Assets	Number of Accounts	Composite Pure Gross Return (%)	Composite Net Return (%)	Allocator Blended Benchmark Return (%)	Composite Dispersion (%)
2011	2,719	378	14%	1,803	1.19	-1.05	0.43	0.42
2010[1]	2,365	73	3%	358	12.53	10.75	12.59	N/A[2]

[1]*Performance calculations for the period ended December 31, 2010 only includes 10 months of history.*
[2]*N/A information is not statistically meaningful due to an insufficient number of portfolios in the composite for the entire year.*

1. Compliance Statement - Navellier & Associates, Inc. claims compliance with the Global Investment Performance Standards (GIPS®) and has prepared and presented this report in compliance with GIPS standards. Navellier & Associates, Inc. has been independently verified for the periods January 1, 1995 through September 30, 2011 by Ashland Partners & Company LLP. Verification assesses whether (1) the firm has complied with all the composite construction requirements of the GIPS standards on a firm-wide basis and (2) the firm's policies and procedures are designed to calculate and present performance in compliance with the GIPS standards. The Vireo Allocator Wrap Composite has been examined for the periods March 1, 2010 through September 30, 2011. The verification and performance examination reports are available upon request.

2. Definition of Firm - Navellier & Associates, Inc. is a registered investment adviser established in 1987. Navellier & Associates, Inc. manages a variety of equity assets for primarily U.S. and Canadian institutional and retail clients. The firm's list of composite descriptions as well as information regarding the firm's policies for valuing portfolios, calculating performance, and preparing compliant presentations are available upon request.

3. Composite Description - The Vireo Allocator Wrap Composite includes all discretionary Vireo Allocator equity accounts that are charged a wrap fee and are managed with similar objectives for a full month, including those accounts no longer with the firm. The strategy attempts to track an index known as the AlphaSector Allocator Premium Index ("Index"). Navellier & Associates, Inc. pays a licensing fee to F-Squared Investments, Inc. to provide a model of the Index. The Index "sleeves" are allocated as follows: 36% consists of the AlphaSector Premium Index, 30% consists of the AlphaSector Fixed Income Premium Index, 24% consists of the AlphaSector International Premium Index, and 10% consists of the AlphaSector Alternatives Premium Index. The AlphaSector Premium Index is quantitatively driven and applies a weekly trading protocol to nine Select Sector SPDRs and an exchange traded fund ("ETF") representing 1-3 month Treasuries. Note that in the place of the 1-3 month Treasuries in each "sleeve," Vireo Allocator accounts managed by Navellier & Associates, Inc. may invest in a cash equivalent, such as money market funds. The index has the potential to be invested in any combination of the nine SPDRs including all nine at the same time, a combination of sector SPDRs and the Treasury ETF, or can be 100% invested in the Treasury ETF. The AlphaSector Fixed Income Premium Index is quantitatively driven and applies a weekly trading protocol to four fixed-income ETFs along with a 7-year Treasury ETF. The index has the potential to be invested in a combination of the four fixed income ETFs and the Treasury ETF or can be 100% invested in the Treasury ETF. The AlphaSector International Premium Index is quantitatively driven and applies a weekly trading protocol to two international equity ETFs, representing developed international markets and emerging markets, along with a 1-3 month Treasury ETF. The index has the potential to be invested in a combination of the two international ETFs, a combination of the international ETFs and the Treasury ETF, or can be 100% invested in the Treasury ETF. The AlphaSector Alternatives Premiium Index is quantitatively driven and applies a weekly trading protocol to two alternative ETFs, representing real estate and gold, and either an S&P 500 ETF or a 1-3 month Treasury ETF. The index has the potential to be invested in a combination of the alternative ETFs or a combination of the alternative ETFs and the S&P 500 ETF or the 1-3 month Treasury ETF if the AlphaSector Premium Index has any exposure to the Treasury ETF. There is no guarantee that Navellier will achieve returns similar to the index, and in fact the strategy's returns may vary from the index due to the timing of trades and after fees are taken into account, including management fees, brokerage or transactions costs, or other administrative or custodian fees. Performance is calculated on a "time-weighted" and "asset-weighted" basis. Performance figures that are net of fees take into account advisory fees and any brokerage fees or commissions that have been deducted from the account. "Pure" gross-of-fees returns do not reflect the deduction of any trading costs, fees, or expenses, and are presented only as supplemental information. Performance results are total returns and include the reinvestment of all income, including dividends. The composite was created March 1, 2010. As of April 2012, the Vireo AlphaSector Allocator Premium Wrap Composite has been renamed the Vireo Allocator Wrap Composite. Valuations and returns are computed and stated in U.S. Dollars.

4. Management Fees - The management fee schedule for accounts ranges from 75 to 100 basis points, depending on account size and brokerage selected. Some incentive fee, fixed fee, and fulcrum fee accounts may be included. Fees are negotiable, and not all accounts included in the composite are charged the same rate. Bundled fee accounts make up 100% of the composite for all periods shown. Fee schedules are provided by independent sponsors and are available upon request from the respective sponsor. The bundled fees include custody, trading expenses, and other expenses associated with the management of the account. The client is referred to the firm's Form ADV Part 2A for a full disclosure of the fee schedule.

5. Composite Dispersion - If applicable, the dispersion of annual returns is measured by the standard deviation across asset-weighted portfolio returns represented within the composite for the full year.

6. Benchmark - The Allocator Blended Benchmark is a blended benchmark using the following indices: S&P 500 (45%), MSCI World ex U.S. (25%), and Barclays Capital U.S. Aggregate Bond Index (30%). The benchmark is rebalanced daily. The S&P 500 Index measures the performance of the 500 leading companies in leading industries of the U.S. economy, focusing on the large cap segment of the market, with approximately 75% coverage of U.S. equities. The MSCI World ex U.S. Index is a free float-adjusted market capitalization weighted index that is designed to measure the equity market performance of developed markets. As of June 2011, the MSCI World ex U.S. Index consisted of the following 23 developed market country indices: Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Hong Kong, Ireland, Israel, Italy, Japan, the Netherlands, New Zealand, Norway, Portugal, Singapore, Spain, Sweden, Switzerland, and the United Kingdom. MSCI World ex U.S. Index targets 85% of the free float adjusted market capitalization. The Barclays Capital U.S. Aggregate Bond Index is a broad-based benchmark that measures the investment grade, U.S. dollar-denominated, fixed-rate taxable bond market, including Treasuries, government-related and corporate securities, MBS (agency fixed-rate and hybrid ARM passthroughs), ABS, and CMBS. The returns for the index includes the reinvestment of any dividends. The asset mix of the composite may not be precisely comparable to the presented index. Presentation of index data does not reflect a belief by the Firm that the Allocator Blended Benchmark, or any other index, constitutes an investment alternative to any investment strategy presented in these materials or is necessarily comparable to such strategies. As of October 2011, the Dow Jones Moderate Global Index is no longer listed as the primary benchmark because it is not a reasonable representation of the investment strategy because it lacks exposure to fixed income. As of October 2011, the AlphaSector Allocator Blended Index has been renamed the Allocator Blended Benchmark.

7. General Disclosure - The three-year annualized standard deviation is not presented because 36 months of history is not available. Actual results may differ from composite results depending upon the size of the account, custodian related costs, the inception date of the account and other factors. ***Performance results presented herein do not necessarily indicate future performance. Investment in equity strategies involves substantial risk and has the potential for partial or complete loss of funds invested. Results presented include reinvestment of all dividends and other earnings.*** The securities identified and described do not represent all of the securities purchased, sold, or recommended for client accounts. It should not be assumed that any securities recommendations made by Navellier in the future will be profitable or equal the performance of securities made in this report. A list of recommendations made by Navellier & Associates, Inc. for the preceding twelve months is available upon request.

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EXHIBIT 37

Analysis Of Correlation Between Historical Returns And F-Squared's Net Fees

I. Summary Of Opinion

1. There is substantial academic literature in economics and finance on the relationship between historical fund performance and net flows of investor assets to mutual funds. The takeaway from this literature is that fund flows are related to recent performance history. Past returns are but one of many factors to which investor flows are correlated, and the degree to which past returns are correlated with net fund flows declines with the age of the returns. Indeed, the empirical data only reflects a statistically relevant correlation for one-, two-, and three-year lagged returns. Thus, a fund's investors flows are likely not attributable to its historical returns of more than three years; instead, they are primarily attributable to unique fund-specific characteristics and other factors, including fund volatility, fund fees, fund size, and fund returns from within the past three years. *See infra* Section II.

2. In light of the academic literature and empirical data, the flows of investor assets to the F-Squared's AlphaSector indices that may have any potential correlation to pre-October 2008 historical returns are those received by F-Squared prior to October 1, 2011. Because F-Squared's AlphaSector indices were not available until October 2008, only asset flows between October 1, 2008 and September 30, 2011 would potentially have been affected by advertised information about pre-October 2008 historical returns.

3. While there are a number of fund-specific characteristics other than historical returns that influence flows of investor assets, we have been asked to assume that *all* asset flows to F-Squared's AlphaSector indices during the period October 1, 2008 through September 30, 2011 were *solely* influenced by overstated historical returns (the "Sole Factor Assumption") and to calculate, based on that skewed assumption, the amount of fees collected by F-Squared during that period that were potentially correlated with reported pre-October 2008 returns.

4. Applying the Sole Factor Assumption, we estimate that $1,314,226 is the *maximum* in net fees collected by F-Squared in connection with its AlphaSector indices between October 1, 2008 and September 30, 2011 that were potentially correlated with reported pre-October 2008 returns. *See infra* Section III.

5. Because the Sole Factor Assumption overstates the impact of historical returns, the net fees between October 1, 2008 and September 30, 2011 that were actually correlated with reported pre-October 2008 returns is less than $1,314,226.

II. Academic Literature On Drivers Of Net Flows

6. Sirri & Tufano (1998) address the factors driving net flows into mutual funds, including lagged returns, controlling for other fund characteristics. They measure the correlation of lagged one-, two- and three-year returns, as well as cumulative historical returns over a five-year period, looking at the relative ranking of funds by return category. Generally, they find that past returns are significantly correlated with net fund flows, and that this correlation exists for only one-, two-, and three-year lagged returns. They also find that the level of importance of returns on fund flows is declining with the age of the returns, and that investor flows are significantly correlated with a number of other factors in addition to past returns, including fund volatility, fund fees, fund size and fund marketing efforts.

7. In addition to Sirri and Tufano, many other authors have examined fund flow drivers both directly and indirectly. For example:

- Carhart (1997) documents and attempts to explain return persistence in mutual fund performance, finding that "funds with high returns last year have higher-than-average expected returns next year, but not in years thereafter."[1]

- Gruber (1996) and Zheng (1998) find evidence to support the "smart money" effect, *i.e.*, that investors select funds by moving away from the poor performers and towards the good performers based on *recent* historical returns to maximize their investment values.

- Chevalier and Ellison (1997) note that only one- and two-year lagged returns have a statistically relevant impact on net flows. In fact, the authors further state that they tried additional lagged returns beyond two years in their regression analysis, but ultimately did not include those lagged returns in their models because none of them were significant in explaining flows.

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1 https://stuwww.uvt.nl/fat/files/library/Carhart,%20Mark%20M.%20%20On%20Persistence%20in%20Mutual%20Fund%20Performance%20(1997).pdf

8. The key conclusion from all of these studies is that it is recent historical returns – those within the last three years – that affect net flows into mutual funds. No academic literature published over the past decade tests for or finds any relationship between net flows and returns lagged for periods longer than five years. Indeed, the literature primarily focuses on the relationship between fund flows and one-year lagged returns, with some papers including two- and three-year lagged returns as well.

9. Moreover, when researchers test the impact of multiple lags of returns on net flows, they generally find a decreasing impact of performance on flows over time – in other words, older performance measures matter less to investors. For example:

- Jain and Wu (2000) show that the impact of historical returns on net fund flows decreases with the age of the historical returns – in their model, the impact of three-year lagged returns on net flows is approximately one-third as large as one-year lagged returns.

- Sirri & Tufano (1998) find that ranking in the top 20% of raw return performance one year ago has an impact on net flows that is more than twice as large as ranking in the top 20% of raw return performance three years ago (in a model which controls for a number of other fund characteristics, including rank one year, two years, and three years ago).

- Chevalier and Ellison (1997) find that the impact of returns on flows decreases over time, with two-year-lagged returns having a substantially lower impact on flows than one-year-lagged returns.

- Cashman, et al. (2007) look at *monthly* net flows of assets into mutual funds and monthly lagged returns. The authors find that there is a statistically significant impact of monthly lagged returns – indicating both that investors respond to very short term performance measures – and also that the impact of these monthly returns generally decreases over time (*i.e.*, that the impact of returns from one or two months prior is larger than the impact from months three through twelve).

10. Thus, to the extent asset flows to F-Squared's AlphaSector indices during the period October 1, 2008 through September 30, 2011 were influenced by historical returns, the literature indicates the relevant returns would be the returns one year prior, *i.e.*, generally from 2007-2010, with more weight placed on 2010 performance than on any prior year to influence flows in 2011.

11. As explained above, the academic literature consistently shows that there are a variety of drivers of net flows into mutual funds other than lagged historical returns. These

OS Received 03/16/2023

include measures of fund volatility, fees and loads, fund size, fund family characteristics, measures of press coverage, and fund turnover measures. In addition, there is an idiosyncratic component to flows which is unique and specific to each fund.

III. Theoretical Maximum In Net Fees Correlated With Pre-October 2008 Returns (Applying The Sole Factor Assumption)

12. Prior to October 1, 2011, F-Squared received a total of $12,894,063 in gross fees in connection with its AlphaSector indices. These fees were earned based on assets under management. At any given point in time, assets under management themselves were comprised of the original capital invested (*i.e.*, principal investments) as well as the investment return of these assets as a result of the general increase in market prices.

13. Therefore, the gross fees received by F-Squared were comprised of (i) fees on the original net flows into fund vehicles tracking the AlphaSector strategies; and (ii) fees on the assets under management that are due to capital appreciation earned due to the AlphaSector strategies delivering on their value proposition.

14. Whereas fees on principal investments could potentially be correlated to F-Squared's reported pre-October 2008 returns, fees on the portion of assets under management resulting from the general increase in market prices would not be correlated to F-Squared's pre-October 2008 returns because they are earned due to actual performance post-October 2008. Fees on principal investments accounted for $12,463,301 of the $12,894,063 in gross fees.

15. Of the $12,463,301 in fees on principal investments, $3,891,710 was paid to Newfound Research, LLC ("NFR Expense") pursuant to the Data Provider Agreement and Amended and Restated Data Provider Agreement between F-Squared and NFR. Fees on principal investments, net of the NFR Expense due to principal investments, is $8,571,591.

16. In addition to fees paid to NFR, F-Squared incurred costs for research and development, sales and marketing, and general and administrative fees (collectively, "Overhead Costs").

17. Furthermore, there is testimony from one of F-Squared's clients, Virtus Investment Partners, that it did not rely on the pre-October 2008 performance record in deciding

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ECONOMIC CONSULTING

to engage F-Squared as a sub-advisor.[2] As a result, any fees collected from Virtus ("Virtus Fees") would not be correlated to F-Squared's pre-October 2008 returns.

18. As reflected in the table below, fees on principal investments, net of NFR Expense, Overhead Costs, and Virtus Fees is $1,314,226.

Fees Analysis

January 1, 2008 to September 30, 2011[3]

Year	Total Fees on Principal Investments	NFR Expense	Total Fees Net of NFR Expense	Total Fees Net of NFR Expense and Overhead Costs[4]	Total Fees Net Of NFR Expense, Overhead Costs,[4] and Virtus Fees[5]
(1)	(2)	(3)	(4) (2)-(3)	(5)	(6)
2008	12	0	12	0	0
2009	131,840	58,309	73,531	0	0
2010	2,186,853	880,784	1,306,069	150,816	150,647
2011	10,144,596	2,952,617	7,191,979	2,972,068	1,163,579
Total:	**12,463,301**	**3,891,710**	**8,571,591**	**3,122,885**	**1,314,226**

18. Thus, $1,314,226 is the *maximum* in net fees collected by F-Squared in connection with its AlphaSector indices between October 1, 2008 and September 30, 2011 that were potentially correlated with reported pre-October 2008 returns.

19. Because there are a number of fund-specific characteristics other than historical returns that influence flows of investor assets, the net fees between October 1, 2008 and September 30, 2011 that were actually correlated with reported pre-October 2008 returns is less than $1,314,226.

2 *See* Waltman Tr. at 83-84.

3 Data provided by F-Squared.

4 Overhead Costs consist of: product, research and development, sales and marketing, and general and administrative expenses. In years where Overhead Costs were greater than total fees net of NFR Expense, total fees net of NFR Expense and Overhead Costs are set at zero.

5 Virtus Fees are net of NFR Expense and Overhead Costs.

EXHIBIT 38

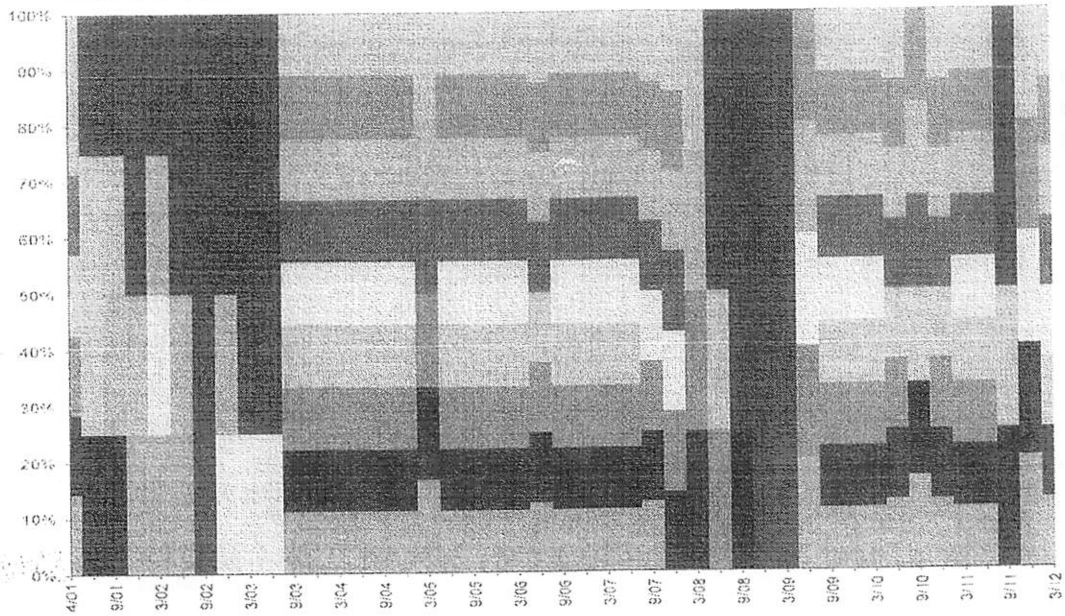
OS Received 03/16/2023

SUPPLEMENTAL INFORMATION

Historical Diversification and Re-allocation

April 1, 2001 - March 31, 2012

The AlphaSector Index invests in the nine Select Sector ETFs and a cash equivalent. Based upon a weekly risk assessment calculation, each sector may be "turned on" or "turned off" and under certain circumstances, the portfolio has the potential to have a 100% allocation to a cash equivalent.



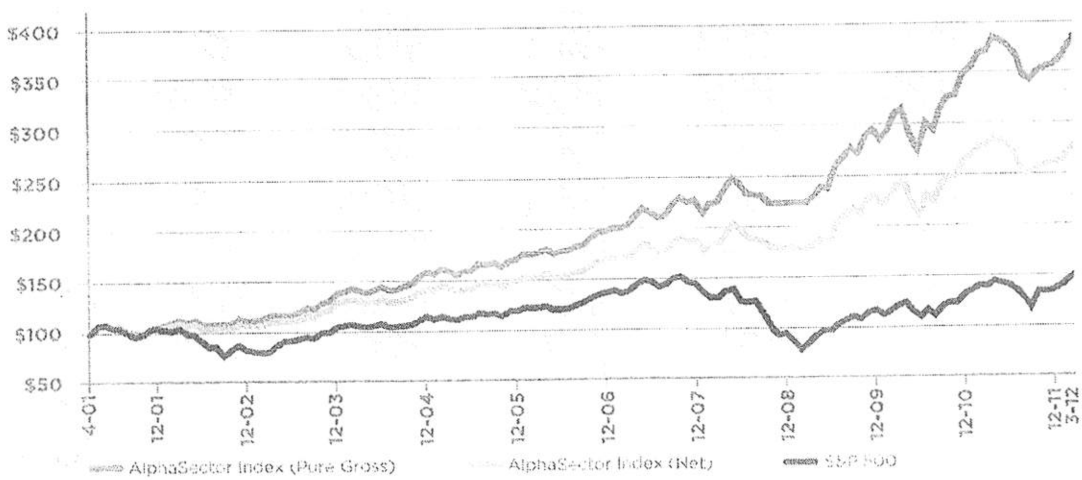
Note periods where the Index goes to cash: (BIL)

* Vireo Premium accounts may invest in a cash equivalent, such as money market funds, in place of BIL.

Source: F-Squared Investments, Morningstar. Copyright 2009 – Patents pending. Allocations presented for each ETF represent the allocation as of the last day of the period. Allocations are rounded for presentation purposes.

AlphaSector Index* Performance

Growth of 100 Dollars from 4/1/2001 - 3/31/2012



*The Model Manager, F-Squared Investments, refers to the index as the AlphaSector Premium Index. Sources: F-Squared Investments, Inc., Morningstar, Zephyr StyleADVISOR. Performance results presented herein do not necessarily indicate future performance. Graphs are for illustrative and discussion purposes only. Investment in equity strategies involves substantial risk and has the potential for partial or complete loss of funds invested. Results presented include reinvestment of all dividends and other earnings. Please read important disclosures at the end of this presentation.

EXHIBIT 39

THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION

In the Matter of:)

) File No. B-03078-A

NAVELLIER & ASSOCIATES, INC.)

WITNESS: Peter Robert Knapp

PAGES: 1 through 230

PLACE: Wayne L. Morse Courthouse

405 East Eighth Avenue

Eugene, Oregon 97401

DATE: Tuesday, September 14, 2016

The above entitled matter came on for hearing, pursuant to notice, at 9:46 a.m.

Diversified Reporting Services, Inc.

(202) 467 9200

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Was there any discussion of data or, rather, validating the process pre-2008?
A No. I don't think so.
Q Okay. Do you know -- did Howard communicate why he was only talking about 2008 to 2011?
A Not that I recall.
Q Did you ever discuss with Louie Navellier his intention or his wish to sell off the Vireo division?
A Yeah.
Q First tell me when you had those discussions.
A You know, it was summertime. Does that help?
Q Okay. It does if there was a year to go along with it; it would be very helpful.
A Or springtime, 2011 maybe. When he started to really become very agitated, I think he was in the town -- he was in Denton. I lived in in Nevada. And we had a Starbucks. It might have been in May when he said he didn't trust me, and I think I told him, look, you obviously didn't read what I read in '09. And it kind of calmed him down to know that live trades were being delivered to

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the NASDAQ, no cherry picking. I said, why don't you sell me Vireo and relieve all your problems. I decided -- you know, my wife and I are blessed that he didn't sell it to us.
Q Okay.
A And I think he said something like, I can't sell it to you. It's a horrible product. Why would I sell you something horrible?
Q How much did you push on him getting it to sell it to you?
A I did a letter of intent. It went -- probably went to Kornhauser and went into the round bin. I came up with a payment, you know, acquisition structure of -- you know, at the time -- I have a close friend that made a lot of money in Silicon Valley so he would be willing to put up the 2 million, and the rest. I don't care. It's going to be a contingent note so if I do really well, you make your target. And those discussions didn't go anywhere.
Q Was there a time after that that you learned that Louie Navellier did want to sell off Vireo?
A Oh, yeah.
Q And when was that?

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A I'm trying to remember if I was still with the firm or not, and I don't think I was with the firm any more.
Q And that's when you first heard about Louie selling off or trying to sell off Vireo?
A Well, I mean, yeah. I mean, he got when I was there to the point where he wanted me to close the accounts and give their money back to these investors. And I actually looked for an advisory landing spot that could take these composites and these accounts and do the trading and do the back office work. I thought I had found something that was viable. And I think I even took the idea to Louie. Look, we can get rid of this for you, but don't close the accounts.
Q Was this before or after you separated --
A I was still with the firm at that time.
Q Why was Mr. Navellier talking about closing all those accounts?
A He was frustrated with it. He wanted Vireo gone.
Q So he wanted to close the accounts so he wouldn't have to manage the Vireo products?
A Yes. Just get rid of Vireo so it doesn't exist and then we can be gone and we can

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concentrate on Navellier products.
Q Was it your understanding that Mr. Navellier's concerns about possible products with the F-Squared products went into his decision to get rid of it?
A Those were fabrications made up by Louie to try to extinguish Vireo.
Q So when you say they're fabrications, did those --
A He turned out to be right.
Q He does turn out to be right. It's true. Did those concerns that he have, you know, to your knowledge play a role in desiring to get rid of the Vireo line of business?
A No. Absolutely zero.
Q Why is that?
A Because he didn't know about -- that they were lies. He just called them lies. He was looking with the Department of -- with the California Department of Corporations. Well, he picked the wrong agency. They don't do securities investigations. So he's lying. And he's doing anything he can think of to try and get rid of Vireo. Absolutely no concern what -- he had no evidence to base his claims of it's a fraud and

OS Received 03/16/2023

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

Securities and Exchange Commission,)
)
Plaintiff,)
)
v.) C.A. 17-CV-11633-DJC
)
Navellier & Associates, Inc. and Louis Navellier,)
)
Defendants.)

VIDEO DEPOSITION OF LOUIS G. NAVELLIER
Thursday, November 8, 2018
Securities and Exchange Commission
Boston District Office
33 Arch Street - 24th Floor
Boston, Massachusetts 02110

Reported by:
J. Edward Varallo, RMR, CRR
Registered Professional Reporter
JOB No. 181108VG

A. Yeah, we used to, yeah.
Q. Okay. And this email is you forwarding along marketing materials for the Vireo products?
A. Correct.
Q. Why were you doing that?
A. Because we wanted to sell it at that time, dispose of the assets.
Q. So you wanted to sell Vireo to Forward Management?
A. Correct.
Q. And did you think that Mr. Cusack would be involved in buying Vireo from you?
A. Yes.
Q. And why did you want to sell it?
A. Because I didn't like Howard Present; I didn't like what he was doing to my brand. I concluded he was an index manager and I'm an active manager and I don't want to sell index products. It muddles the message, so I wanted out.
Q. And you say in the third paragraph "If you like what you see with Vireo, website, and would like to explore packing our ETF management for broader wire house distribution in an alliance like you did for Chris, we would like to meet with you and explore how we might be able to help each

EXHIBIT 40

OS Received 03/16/2023

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

Securities and Exchange Commission, Plaintiff, v. Navellier & Associates, Inc. and Louis Navellier, Defendants.	) C.A. 17-CV-11633-DJC

VIDEO DEPOSITION OF LOUIS G. NAVELLIER
Thursday, November 8, 2018
Securities and Exchange Commission
Boston District Office
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Registered Professional Reporter
JOB No. 181108VG

if we can get comfortable with F2 numbers, and/or improve disclosures." Correct?

A. Yes.

Q. So that's also what he's telling you in relation to your made-up email about trade confirms?

A. Yes, sir.

Q. And you respond to that, correct, in the middle of the page later that day?

A. Yes.

Q. And you say "We just have to cover our ass somehow." Correct?

A. Yes, sir.

Q. What did you mean by "cover our ass somehow"?

A. That's just again me being political.

Q. What did you mean by the sentence?

MR. KORNHAUSER: Objection, asked and answered.

MR. JONES: No, it wasn't answered.

BY MR. KORNHAUSER:

Q. What did you mean by the sentence?

MR. KORNHAUSER: Yes, he did. He said it was just him being political.

A. Marc, this is very simple. Everything I said was made up about criticizing F2 and Howard

OS Received 03/16/2023

Present. I hated the man, I despised the man; I didn't want to sell an index product; I was jealous that he was stealing accounts from me. Obviously, the accounts were lower margin; they weren't profitable. I didn't want to be affiliated with this guy. I just made up crap to get rid of him. I was a political operative. Okay? Internally, in my own firm, I was a jerk. Okay? And I was doing my best to be a jerk and intimidate the crap out of everybody.

You're not going to get an email from me criticizing Howard where I didn't make up crap. Okay? Now, look, I say "made up." I made up the SEC, I made up the California Department of Corporations. It was just me going off to intimidate people.

Q. So the SEC part is the part of your email that says "The SEC is going to love this, though." Correct? Is that what you're referring to?

A. Yes, that's what it says, yes.

Q. And you turned out to be right about that. Correct?

MR. KORNHAUSER: Objection.

A. Well, I guess so, heh heh.

EXHIBIT 41

VOLUME 1 EXHIBITS 300-328 PAGES 1-249

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO: 17-CV-11633-DJC

SECURITIES AND EXCHANGE COMMISSION

Plaintiff,

vs.

NAVELLIER & ASSOCIATES, INC., ET AL.

Defendants.

VIDEOTAPED DEPOSITION OF PATTY LOEPKER

May 7, 2019 - 9:30 a.m.

STONE, LEYTON & GERSHMAN, LLP

7733 Forsyth Boulevard, Suite 500

St. Louis, Missouri 63105

Christopher C. Wiegers, CCR-MO, CSR-IL

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advisors and clients.
Q. (By Mr. Kornhauser) And that -- that would have been --
MR. KALINOWSKI: Sam, can I ask you for clarification? Can we assume that you're asking these questions of the witness in her individual capacity unless you specify otherwise?
MR. KORNHAUSER: Sure.
MR. KALINOWSKI: Fair enough.
MR. KORNHAUSER: Well, in her individual capacity as head of the research advisory or --
MR. KALINOWSKI: I'm distinguishing that from the corporate capacity in which she's appearing here today. So can we assume for the record that unless you specify otherwise, the questions you're asking is in her individual capacity?
MR. KORNHAUSER: Yeah.
MR. KALINOWSKI: Thank you.
MR. DONAHUE: Thank you.
MR. MALINA: Do you want to re-ask the question?
MR. KORNHAUSER: Yeah, could -- could you read the question please?
THE COURT REPORTER: There actually wasn't a question.

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MR. KORNHAUSER: Well, that made it easy.
MR. MALINA: I thought there was a question.
Q. (By Mr. Kornhauser) Okay. And that was for both wrap fee agreements and dual contracts you started --
A. No.
Q. Okay. When did you start doing -- did you do due diligence at the manager level for dual contract strategies?
A. Yes.
Q. All right. And when did you start doing that?
A. To my knowledge, from the inception of the dual contract platform there was some level of manager level due diligence.
Q. And what -- what did that entail, the due diligence? What did you do?
A. We had basic criteria for -- for managers to be on the platform within the dual contract platform. They had to be federally SEC registered. They had to have kind of a clean ADV. And because of the federal registration, they had to have a certain -- you know, to meet the asset management -- or the assets under management levels. So we would just be comfortable with the ADV review that we were comfortable doing business with the manager.
Q. Did you do any due diligence on the various strategies that a particular investment advisor, third-party

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investment advisor, would be having on your platform?
MR. MALINA: What time period are you talking about now?
MR. KORNHAUSER: Well, let's talk about the 2010 to 2014 time period.
A. So dual contract was manager level only until 2013. After 2013, we added strategy level due diligence. The wrap platform, again, essentially since inception of the platform, was a research-based strategy level due diligence platform.
Q. (By Mr. Kornhauser) So your answer is you didn't -- Wells Fargo didn't do any due diligence on the PAN platform for the strategies that various investment advisors brought to Wells Fargo?
MR. DONAHUE: Objection.
A. Prior to 2013.
Q. (By Mr. Kornhauser) Right.
A. Correct.
Q. All right. But Wells Fargo Advisors, prior to 2013, on the separately managed accounts was an investment advisor; correct?
A. Correct.
Q. Okay. And you basically sub-advised to third-party investment advisors on these -- on the PAN platform?

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MR. MALINA: Foundation objection.
A. No.
Q. (By Mr. Kornhauser) What was -- what did Wells Fargo do on these dual contract strategies that it engaged in with third parties?
MR. MALINA: Objection to the form of --
Q. (By Mr. Kornhauser) What type of?
MR. MALINA: Objection to the form of the question.
Q. (By Mr. Kornhauser) Do you understand the question -- well, let's talk about Navellier & Associates.
Prior to 2013, Navellier & Associates had it's Vireo AlphaSector strategies on Wells Fargo's platform?
A. Correct.
Q. And those were dual contracts?
A. Correct.
Q. And Wells Fargo did no due diligence on those Vireo AlphaSector strategies; is that right?
A. Correct.
Q. But Wells Fargo was marketing those strategies to its clients; isn't that correct?
A. No, not -- as an organization we were not marketing those strategies. We made them available on our platform.
Q. What does that mean?
A. That means they're out on our internal system that

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a financial advisor could choose to -- could choose to recommend them to their client, and the client makes the ultimate decision to hire or not to hire the manager.
Q. But marketing material would be presented by your Wells Fargo FAs to various clients; isn't that right?
MR. DONAHUE: Objection.
MR. MALINA: Objection.
Q. (By Mr. Kornhauser) You can answer the question.
A. Correct. They could.
Q. All right. And -- and the -- after the FA -- let's say on Navellier's Vireo AlphaSector premium product. Various Wells Fargo FAs would take that marketing material and present it to clients and they could choose whether or not they want to do invest in that strategy; correct?
MR. MALINA: Objection. Calls for speculation.
MR. DONAHUE: Objection.
Q. (By Mr. Kornhauser) You can answer the question.
MR. DONAHUE: Objection.
A. I believe correct.
Q. (By Mr. Kornhauser) I mean, that was kind of the procedure; right?
A. Correct.
Q. I mean, you're aware that Wells Fargo financial advisors referred over a billion two in client assets under

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the Navellier Vireo AlphaSector strategies; isn't that right?
MR. DONAHUE: Objection.
MR. MALINA: Objection to the form of the question.
A. I don't know what the assets levels were.
Q. (By Mr. Kornhauser) Well, it was a large amount, wasn't it?
MR. DONAHUE: Objection.
A. I don't know what the assets were.
Q. (By Mr. Kornhauser) Do you know if it was over a billion dollars?
A. I do not know. I don't remember.
Q. (By Mr. Kornhauser) Did you know -- did you know at one time?
MR. DONAHUE: Objection.
A. I believe -- I should -- I guess. I think so.
Q. (By Mr. Kornhauser) That was part of your job; right? You were keeping track of assets Wells Fargo was raising --
MR. KORNHAUSER: Let him finish his question. Take your time.
Q. (By Mr. Kornhauser) -- under his strategies; correct?
MR. DONAHUE: Objection.

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MR. MALINA: Objection to the form of the questions.
A. We had hundreds of strategies available on the platform. So following any single manager and their asset levels at any given time would not necessarily be something I would be remembering on a day-to-day basis or need to know on a day-to-day basis. I do not remember what any asset level was for a given manager five years ago.
Q. (By Mr. Kornhauser) Well, do you remember in July/August of 2013 that F-Squared was in the process of acquiring the Vireo strategy from -- or strategies from Navellier & Associates?
A. Yes.
Q. Okay. And you were involved -- and there -- there were meetings between Navellier & Associates' personnel and Wells Fargo and F-Squared to make sure that Wells Fargo was okay with the transfer of basically Wells Fargo clients from Vireo to F-Squared; isn't that right?
MR. DONAHUE: Objection. Compound.
A. I remember a single joint meeting with all parties.
Q. (By Mr. Kornhauser) Okay. And the purpose of that meeting was what?
A. The conversation around the potential sale of the assets and assignment of accounts.

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Q. Right. And F-Squared and Navellier needed to know that Wells Fargo was okay with that transfer; correct?
MR. MALINA: Objection. Calls for speculation.
MR. DONAHUE: Objection.
Q. (By Mr. Kornhauser) I mean, that was the purpose of the meeting, to get Wells Fargo's blessing or approval to the transfer of those assets from Navellier & Associates to F-Squared; isn't that right?
MR. DONAHUE: Objection.
MR. MALINA: Same objection. Foundation objection.
A. The purchase or sale of assets from one organization to another on our platform is not dependent on Wells Fargo blessing that purchase. That's a transaction between two of our -- two of our third party advisors that we could not prevent that transaction from happening.
Q. (By Mr. Kornhauser) Well -- but -- I mean, that was the whole point of the meeting. It wasn't to prevent it. It was to know that Wells Fargo wouldn't take any adverse action, recommend to its clients that they not approve the transfer; isn't that right?
MR. MALINA: Objection to the form of the question.
MR. DONAHUE: Objection. Argumentative.
A. If that was the intent of the parties in the room, that was not my understanding.

WELLS FARGO ADVISORS

News Alert

A Manager Strategy Group Publication

May 20, 2014

F-Squared Investments

- AlphaSector Allocator Select
- AlphaSector Global Select

Analyst: Adam Thomson, CFA

Manager Strategy Changes the Status of F-Squared Strategies to Watch Pending the Conclusion of the SEC Investigation:

Manager Strategy recently visited F-Squared's Wellesley, MA offices. We met with several members of the organization including Howard Present, President and CEO of F-Squared Investments, Kara Brown, Chief Compliance Officer & Counsel, Rich Block, Head of Trading and Operations, Sharon French, President of F-Squared Capital, and Alexey Panchekha, member of the Quantitative Research team. During our visit we focused on the recent SEC findings, as well as how the firm is managing its growth.

The current findings from the SEC Investigation, which we outlined previously, were an important topic and we spent considerable time understanding the history of the events. F-Squared was founded in 2006, and began managing live assets in the AlphaSector strategy in October of 2008. Performance from October 2008 to present is not in question and has been independently audited and found to be in compliance with Global Investment Performance Standards (GIPS). It is the performance that had been reported in some marketing materials for the period of April 2001 through September 2008 that the SEC has called into question. Below is a summary of the SEC's findings.

Some F-Squared advertisements for certain products included statements that the AlphaSector U.S. Equity index performance record from April 2001 through September 2008 was based on buy and sell signals utilized by a wealth management firm to manage live assets. In September 2008, F-Squared acquired the data signals used in performance reporting for the April 2001 through September 2008 period from a third party which was related to a wealth management firm. The SEC's Department of Enforcement recently informed F-Squared that its investigation has shown that the wealth management firm was not in fact using these buy and sell signals to manage client assets, and therefore the advertised performance for April 2001 through September 2008 did not represent index returns linked to live assets. During our visit, Mr. Present was adamant that at the time of the purchase, F-Squared was informed that the wealth management firm had been using the buy and sell signals on live assets. Upon the SEC's discovery that the signals were not linked to live assets, F-Squared asked that all previously provided or published performance related specifically to that time period, April 2001 through September 2008, be disregarded.

EXHIBIT 42

OS Received 03/16/2023

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SAMUEL KORNHAUSER

VIA EMAIL and U.S. MAIL

PRIVILEGED AND CONFIDENTIAL FOR SETTLEMENT PURPOSES ONLY

December 21, 2017

United States Securities and Exchange Commission
33 Arch Street, 23rd Floor
Boston, MA 02110

Attn:
Stephanie Avakian
[redacted]

[redacted]

OS Received 03/16/2023

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VIA EMAIL and U.S. MAIL

PRIVILEGED AND CONFIDENTIAL FOR SETTLEMENT PURPOSES ONLY

March 7, 2018

United States Securities and Exchange Commission
33 Arch Street, 23rd Floor
Boston, MA 02110
Attention: Marc Jones, Esq.

Re: *SEC v. Navellier & Associates, Inc. et al.*, Case No. 1:17-cv-11633

[redacted]

[redacted]

[redacted]
Samuel Kornhauser
Attorney on behalf of
Navellier & Associates, Inc. and
Louis Navellier

SK/tab
cc: Hon. Magistrate Judge Jennifer C. Boal
(via email to Courtroom Deputy Steve York)

CERTIFICATE OF SERVICE

I hereby certify that the **RESPONDENTS' APPENDIX OF EXHIBITS IN OPPOSITION TO THE SEC'S MOTION FOR SUMMARY JUDGMENT VOLUME 2 OF 2 EXHIBITS 11 – 42** was filed on Maech 16, 2023 via eFAP and emailed per stipulation to counsel for the Securities and Exchange Commission to

jonesmarc@sec.gov
cardelloj@sec.gov
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and served on

Jennifer A. Cardello
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by first class U.S. Mail pursuant to SEC Rule 150(c) on this 16th day of March 2023.

Dated: March 16, 2023

By: /s/ *Samuel Rolnick*
Samuel Rolnick

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