FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 20130380026 01

TO: Department of Enforcement
Financial Industry Regulatory Authority ("FINRA")

RE: CP Capital Securities, Inc., Respondent
FINRA Member Firm
BD No. 15029

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent CP Capital Securities, Inc. (the "Firm" or "CP Capital") submits this Letter of Acceptance, Waiver and Consent ("AWC") for the purpose of proposing a settlement of the alleged rule violations described below. This AWC is submitted on the condition that, if accepted, FINRA will not bring any future actions against the Firm alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

A. The Firm hereby accepts and consents, without admitting or denying the findings, and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of FINRA, or to which FINRA is a party, prior to a hearing and without an adjudication of any issue of law or fact, to the entry of the following findings by FINRA:

BACKGROUND

CP Capital is a Florida broker-dealer that has been a member of FINRA since 1984. The Firm conducts a general securities brokerage business and participates in private placement transactions. CP Capital is headquartered in Miami, Florida and employs approximately 16 registered representatives.

RELEVANT DISCIPLINARY HISTORY

In recent years, the Firm has had FINRA disciplinary history involving either the absence of adequate supervisory procedures or deficiencies with respect to how the Firm handled a minimum contingency private placement offering.

In August 2011, the Firm consented to FINRA's findings that, among other things, it violated NASD Rule 3010(b) and FINRA Rule 2010 when it failed to establish and implement any written supervisory procedures concerning the Firm's

managed accounts. The Firm also consented to findings that it violated, among other things, NASD Rules 1021 and 1031 when it improperly permitted two non-registered individuals to perform duties limited to registered personnel. The Firm agreed to a censure and fine in the amount of $35,000.

In April 2009, the Firm consented to FINRA's findings that it violated several SEC rules and regulations and NASD Rules in connection with its role as placement agent in a minimum contingency private placement offering. As described in that AWC, the Firm violated SEC Rule 10b-9 when it failed to terminate an offering and promptly return investor funds after the offering failed to meet the minimum contingency by the closing date. Instead, the Firm extended the offer and raised additional funds, but it did not send reconfirmation offers to investors regarding the extension prior to the closing date. Further, the Firm violated SEC Rule 15c2-4 when it failed to establish a proper escrow account in connection with the offering and directed a premature release of investor's funds from the escrow account. For these and other violations, the Firm agreed to a censure and fine, which was reduced in light of the Firm's size and available resources, to $21,500.

OVERVIEW

From October 2011 through December 2011 (the "Relevant Period"), the Firm acted as a co-placement agent in connection with a minimum contingency private placement offering (the "Offering") of up to $25 million of senior secured notes (the "Notes") issued by a Columbian energy company (the "Issuer"). A minimum of five million dollars face value of the Notes had to be sold to meet the contingency. The Notes were not offered and sold under an effective registration statement with the U.S. Securities and Exchange Commission ("SEC") and were offered pursuant to two exemptions from the registration requirements of the Securities Act of 1933 embodied in Rule 144A/Section 4(a)(1) and Regulation S.

However, the Firm failed to establish and maintain a supervisory system, including written procedures, reasonably designed to ensure that the Firm's sale of the Notes complied with the securities laws and FINRA Rules. The designated supervisor who approved the Offering for offer and sale to the Firm's customers failed to understand the basic requirements of Rule 144A and Regulation S and also took no steps to investigate whether or not specific customer investments in the Offering qualified for those exemptions. The Firm sent questionnaires to potential investors that lacked questions that could have established whether the investors' purchase of the Notes were qualified under the Regulation S exemption or the Rule 144A safe harbor. Some investors sent back completed questionnaires with information that would lead a reviewer to believe that the investors were ineligible for the two intended exemptions, yet the supervisor of the Offering approved those customer investments without any further investigation. Further,

the Firm did not adequately determine whether the minimum contingency for the Offering was satisfied before investor funds were exchanged for Notes. It instead improperly relied solely on its co-placement agent to monitor if the minimum contingency was met, but the Firm did not maintain any records of its own to verify that the contingency was met. In addition, due to the lack of a supervisory system, the Firm created, maintained, and in some cases distributed to customers, inaccurate books and records in connection with the Offering. By reason of the foregoing, the Firm violated NASD Rule 3010(a) and FINRA Rule 2010.

Further, the Firm failed to make and keep certain required records in connection with the Offering. In particular, the Offering involved the sale of notes that matured on January 1, 2017. There were no other notes sold that had any maturity date other than January 1, 2017. However, the Firm's purchase and sales blotter, customer trade confirmations, and customer account statements reflecting investments in the Offering inaccurately described the sale of two separate and distinct notes with some Notes maturing on December 15, 2016 and others maturing on January 1, 2017. By reason for the foregoing, the Firm violated FINRA Rules 4511 and 2010.

FACTS AND VIOLATIVE CONDUCT

1. Background

In late 2011, the Issuer retained the Firm to act as a co-placement agent with another FINRA member firm in a private offering of up to $25 million of the Notes. The Offering was structured as a minimum contingency offering such that the Issuer was required to sell at least $5 million of the Notes for the Offering to close, otherwise funds would be returned to investors. As explained in the offering memorandum, the Notes were not being offered and sold pursuant to an effective registration statement with the SEC and were offered pursuant to the Regulation S exemption and Rule 144A safe harbor. The Notes ultimately were sold pursuant to the Regulation S exemption.

Pursuant to Rule 144A, the Offering was to be offered and sold only to qualified institutional buyers ("QIBs"). Generally, QIBs are institutions that own or invest at least $100 million in securities unaffiliated to the institution itself.

Pursuant to Regulation S, the Notes were to be offered only outside the United States or to investors who were outside the United States at the time of investment.

The Firm sold $2.53 million of the Notes to four investors outside of the United States. The co-placement agent sold the remaining amount to satisfy the minimum for the Offering. For its role as a co-placement agent, the Firm earned a total fee of approximately $75,000. The Offering closed on December 23, 2011.

2. The Firm Failed to Establish and Maintain a Supervisory System, Including Written Procedures, to Ensure Compliance with the Securities Laws Governing Unregistered Offerings and Minimum Contingency Offerings in Violation of NASD Rule 3010(a) and FINRA Rule 2010

NASD Rule 3010(a) requires Firms to establish and maintain a supervisory system, including written procedures, reasonably designed to achieve compliance with the securities laws and regulations. Accordingly, the Firm was required to maintain a supervisory system, including written procedures, that would govern its role in the offer and sale of unregistered securities to comply with Section 5 of the Securities Act. Further, to the extent the Firm participated in the sale of securities in a minimum contingency offering, the Firm was required to maintain an adequate system to ensure that the minimum contingency was met before customer funds were transferred to the issuer. A violation of NASD Rule 3010(a) is also a violation of FINRA Rule 2010, which requires FINRA member firms to "observe high standards of commercial honor and just and equitable principles of trade."

Although the Firm sold $2.53 million worth of Notes in the Offering, it lacked a comprehensive system to reasonably supervise that private placement business. Due to the lack of a reasonable system, the Firm utilized a customer questionnaire that lacked the questions necessary to determine if the customer investments would qualify for the registration exemptions on which the Offering planned to rely. The Firm also relied solely on its co-placement agent regarding whether the minimum contingency was met, but did not keep any of its own records regarding whether it was met. Further, the Firm created and kept records regarding the offering that indicated that there were two notes that matured in two different years, instead of one.

<u>Supervisory Failures With Respect to the Offer and Sale of the Notes Under Regulation S and Rule 144A</u>

With respect to the Finn's role in private placement offerings, one of the most important responsibilities of a firm selling unregistered securities is to ensure that there is an applicable exemption from registration for the offering.

During the Relevant Period, the Firm lacked a system and written procedures reasonably designed to determine whether potential investors in the Offering were qualified to purchase the Notes under Regulation S. Indeed, the Firm's written procedures were devoid of any guidance or process regarding offers and sales of securities under Regulation S. For example, there was no section of the Firm's written procedures addressing: (i) what it meant for an investor to be "outside the United States" for purposes of Regulation S, (ii) steps the Firm should take to confirm if an investor was eligible to purchase the securities pursuant to Regulation S, or (iii) pertinent documents the Firm should acquire and maintain to

establish that a customer's purchase would comply with Regulation S.

The absence of such a system and procedures is significant because, according to the Firm, the Regulation S exemption applied to all customer investments in the Notes it sold for the Offering. While the Firm sent purchaser questionnaires to Offering investors, those questionnaires did not request the key information that would establish whether the customer purchase would qualify for the Regulation S exemption. In fact, the residence or business address contained in the responses to the questionnaires for three of the four investors seemed to indicate that their purchase would occur within the United States. For example, one of the investors was a Florida limited liability company with a business address in Miami, Florida. While the Firm, in hindsight, was able to establish through other evidence that all of the investments qualified for the exemption under Regulation S, the Firm did not have an adequate system or written procedures in place at the time of the Offering to ensure that the requirements of the exemption would be satisfied.

The Firm had written procedures regarding the Rule 144A safe harbor, but due to the lack of a supervisory system governing the unregistered offering, the procedures were not followed. For example, the Firm's written procedures required that the Firm should review potential purchasers to ensure that they meet the qualification for being a QIB prior to the purchase. However, the Firm did not enforce that procedure. The questionnaires the Firm sent to potential investors sought information intended to show whether the investors were accredited under Rule 501 of Regulation D, which was irrelevant to the Offering. The questionnaires did not address the specific requirements of Rule 144A or include questions designed to determine if the purchaser was a QIB. While the Firm, in hindsight, was able to establish through other evidence that no sales to customers were made under the Rule 144A safe harbor, it could not establish that, at the time of the Offering, it had taken steps to determine whether or not the investors were QIBs.

Due to the lack of supervisory system, including written procedures, regarding the Offering, the supervisor of the Offering approved the investors to invest in the Offering based on their questionnaire responses even though those responses did not contain sufficient information to determine if an investor would qualify for the Rule 144A safe harbor or the Regulation S exemption. The supervisor made no effort to follow up with the registered representatives who obtained the information or the investors themselves to collect the required information to adequately assess eligibility.

<u>Supervisory Failures With Respect to Ensuring that the Minimum Contingency Was Met</u>

The Firm lacked a system and procedures with respect to the Firm's obligations to ensure the minimum contingency was met for the Offering. Under Rule 10b-9 of the Exchange Act, a placement agent selling securities in a minimum contingency

offering has its own obligation to protect investors by making sure the minimum contingency for the Offering is satisfied before investor funds are released in exchange for securities. Reliance on other participants in the offering does not excuse this obligation. The Firm failed to track the amount of customer investments in the Offering. Instead, the Firm relied solely on its co-placement agent to determine if the minimum amount was met, but the Firm did not maintain any of its own records to document whether it was met.

Supervisory Failures Related to Inaccurate Books and Records Regarding the Offering

The Firm's lack of a supervisory system and written procedures governing the Offering also led to the creation, and in some cases, distribution to customers, of inaccurate records regarding the Offering. The Offering involved the sale of one Note that matured on January 1, 2017. However, the trade blotter made and kept by the Firm incorrectly reflected sales of two different Notes, one of which matured on December 15, 2016 and one of which matured January 1, 2017. Several customer trade confirmations and account statements reflecting investments in the Offering contained an erroneous maturity date of December 15, 2016. Those records inaccurately indicated that the Issuer offered two series of Notes (instead of one).

* * *

As detailed above, the Firm's supervisory system, including written procedures, regarding a minimum contingency offering offered pursuant to the Regulation S exemption and Rule 144A safe harbor was wholly deficient. For these reasons, the Firm violated NASD Rule 3010(a) and FINRA Rule 2010.

3. The Firm Failed to Make and Preserve Accurate Books and Records in Connection with the Offering in Violation of FINRA Rules 4511 and 2010

FINRA Rule 4511(a) requires FINRA regulated broker-dealers to "make and preserve books and records as required under the FINRA rules, the Exchange Act and the applicable Exchange Act rules." Section 17(a) of the Exchange Act and Rule 17a-3(a)(1) thereunder, requires broker-dealers to make and maintain, among other things, "[b]lotters (or other records of original entry) containing an itemized daily record of all purchases and sales of securities." The records must be accurate. A violation of FINRA Rule 4511 is inconsistent with high standards of commercial honor and just and equitable principles of trade and, therefore, also constitutes a violation of FINRA Rule 2010.

As described above, the Offering involved the sale of one Note that matured on January 1, 2017. There were no other Notes sold in connection with the Offering with any other maturity date. However, during the Relevant Period, the Firm's

purchase and sales blotter made and kept by the Firm incorrectly reflected the sale of two different Notes, one of which matured on December 15, 2016 and another which matured on January 1, 2017.

By reason of the foregoing, the Firm violated FINRA Rules 4511 and 2010.

B. **The Firm also consents to the imposition of the following sanctions:**

- A censure;
- A fine in the amount of $70,000; and
- An undertaking to retain an Independent Consultant to review the Firm's written supervisory procedures concerning its participation in private placement and minimum contingency offerings. Until the Firm adopts and implements the recommendations of the Independent Consultant, the Firm shall refrain from engaging in any private placement or minimum contingency offerings.

The Firm agrees to pay the monetary sanction upon notice that this AWC has been accepted and that such payment is due and payable. The Firm has submitted an Election of Payment form showing the method by which the Firm proposes to pay the fine imposed.

The Firm specifically and voluntarily waives any right to claim that it is unable to pay, now or at any time hereafter, the monetary sanction imposed in this matter.

With respect to the undertaking,

1. CP Capital shall:

   a. Retain, within 30 days of the date of the Notice of Acceptance of this AWC, an Independent Consultant, not unacceptable to FINRA staff, to conduct a comprehensive review of the adequacy of the Firm's policies, systems and procedures (written and otherwise) and training relating to its participation in private placement and minimum contingency offerings;

   b. Exclusively bear all costs, including compensation and expenses, associated with the retention of the Independent Consultant;

   c. Cooperate with the Independent Consultant in all respects, including by providing staff support. The Firm shall place no restrictions on the Independent Consultant's communications with FINRA staff and, upon request, shall make available to FINRA staff any and all communications between the Independent Consultant and the Firm and documents reviewed by the Independent Consultant in connection with his or her engagement. Once retained, the Firm shall not terminate the relationship with the Independent Consultant without FINRA staff's written approval;

the Firm shall not be in and shall not have an attorney-client relationship with the Independent Consultant and shall not seek to invoke the attorney-client privilege or other doctrine or privilege to prevent the Independent Consultant from transmitting any information, reports or documents to FINRA;

d. At the conclusion of the review, which shall be no more than 90 days after the date of the Notice of Acceptance of this AWC, require the Independent Consultant to submit to the Firm and FINRA Staff a Written Report. The Written Report shall address, at a minimum: (i) the adequacy of the Firm's policies, systems, procedures, and training relating to the Firm's participation in private placement and minimum contingency offerings; (ii) a description of the review performed and the conclusions reached; and (iii) the Independent Consultant's recommendations for modifications and additions to the Firm's policies, systems, procedures and training; and

e. Require the Independent Consultant to enter into a written agreement that provides that for the period of engagement and for a period of two years from completion of the engagement, the Independent Consultant shall not enter into any other employment, consultant, attorney-client, auditing or other professional relationship with the Firm, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such. Any firm with which the Independent Consultant is affiliated in performing his or her duties pursuant to this AWC shall not, without prior written consent of FINRA staff, enter into any employment, consultant, attorney-client, auditing or other professional relationship with the Firm or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such for the period of the engagement and for a period of two years after the engagement.

2. Within 30 days after delivery of the Written Report, the Firm shall adopt and implement the recommendations of the Independent Consultant or, if it determines that a recommendation is unduly burdensome or impractical, propose an alternative procedure to the Independent Consultant designed to achieve the same objective. The Firm shall submit such proposed alternatives in writing simultaneously to the Independent Consultant and FINRA staff. Within 30 days of receipt of any proposed alternative procedure, the Independent Consultant shall: (i) reasonably evaluate the alternative procedure and determine whether it will achieve the same objective as the Independent Consultant's original recommendation; and (ii) provide the Firm with a written decision reflecting his or her determination. The Firm will abide by the Independent Consultant's ultimate determination with respect to any proposed alternative procedure and must adopt and implement all recommendations deemed appropriate by the Independent Consultant.

3. Within 30 days after the issuance of the later of the Independent Consultant's

Written Report or written determination regarding alternative procedures (if any), the Firm shall provide FINRA Staff with a written implementation report, certified by an officer of the Firm, attesting to, containing documentation of, and setting forth the details of the Firm's implementation of the Independent Consultant's recommendations.

4. Upon written request showing good cause, FINRA staff may extend any of the procedural dates set forth above.

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

II.

WAIVER OF PROCEDURAL RIGHTS

The Firm specifically and voluntarily waives the following rights granted under FINRA's Code of Procedure:

A. To have a Complaint issued specifying the allegations against the Firm;

B. To be notified of the Complaint and have the opportunity to answer the allegations in writing;

C. To defend against the allegations in a disciplinary hearing before a hearing panel, to have a written record of the hearing made and to have a written decision issued; and

D. To appeal any such decision to the National Adjudicatory Council ("NAC") and then to the U.S. Securities and Exchange Commission and a U.S. Court of Appeals.

Further, the Firm specifically and voluntarily waives any right to claim bias or prejudgment of the Chief Legal Officer, the NAC, or any member of the NAC, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including acceptance or rejection of this AWC.

The Firm further specifically and voluntarily waives any right to claim that a person violated the ex parte prohibitions of FINRA Rule 9143 or the separation of functions prohibitions of FINRA Rule 9144, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including its acceptance or rejection.

III.

OTHER MATTERS

The Firm understands that:

A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs ("ODA"), pursuant to FINRA Rule 9216;

B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against the Firm; and

C. If accepted:

1. This AWC will become part of the Firm's permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against the Firm;

2. This AWC will be made available through FINRA's public disclosure program in accordance with FINRA Rule 8313;

3. FINRA may make a public announcement concerning this agreement and the subject matter thereof in accordance with FINRA Rule 8313; and

4. The Firm may not take any action or make or permit to be made any public statement, including in regulatory filings or otherwise, denying, directly or indirectly, any finding in this AWC or create the impression that the AWC is without factual basis. The Firm may not take any position in any proceeding brought by or on behalf of FINRA, or to which FINRA is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects the Firm's: (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.

D. The Firm may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. The Firm understands that it may not deny the charges or make any statement that is inconsistent with the AWC in this Statement. This Statement does not constitute factual or legal findings by FINRA, nor does it reflect the views of FINRA or its staff.

The undersigned, on behalf of the Firm, certifies that a person duly authorized to act on its behalf has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that the Firm has agreed to its provisions voluntarily; and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein and the prospect of avoiding the issuance of a Complaint, has been made to induce the Firm to submit it.

Date: 8/29, 2016

CP Capital Securities, Inc.

By: [signature]

Title: President

Reviewed by:

[signature]

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Counsel for CP Capital Securities, Inc.

Accepted by FINRA:

4/29/16
Date

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

[signature]

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