



FILED

May 26, 2016

Board of Disciplinary Appeals

**BEFORE THE BOARD OF DISCIPLINARY APPEALS
APPOINTED BY
THE SUPREME COURT OF TEXAS**

**IN THE MATTER OF
MARTIN CANTU, JR.
STATE BAR CARD NO. 03767440**

§
§
§

CAUSE NO. 57698

PETITION FOR COMPULSORY DISCIPLINE

TO THE BOARD OF DISCIPLINARY APPEALS:

Petitioner, the Commission for Lawyer Discipline (hereinafter called "Petitioner"), brings this action against Respondent, Martin Cantu, Jr., (hereinafter called "Respondent"), showing as follows:

1. This action is commenced by Petitioner pursuant to Part VIII of the Texas Rules of Disciplinary Procedure. Petitioner is also providing Respondent a copy of this Board's procedures for handling a compulsory discipline matter by attaching a copy of such procedures to this petition.

2. Respondent, Martin Cantu, Jr., may be served with a true and correct copy of this Petition for Compulsory Discipline, its attachments, as well as a notice of hearing, at Martin Cantu, #25260-380, La Tuna FCI, 8500 Doniphan Road, Anthony, Texas 79821.

3. On or about September 11, 2013, Respondent was charged by Indictment (Exhibit 1) with Count 1 – Conspiracy to Commit Securities Fraud and Count 2 – Securities Fraud; Aiding and Abetting, in Cause No. 3:13CR-347-K, styled *United States of America v. Jason Wynn (1) Martin Cantu (2)*, in the United States District Court for the Northern District of Texas, Dallas Division.

4. On or about December 16, 2015, a Judgment of in a Criminal Case (Exhibit 2) was entered in Case No. 3:13-CR-00347-K(02), styled *United States of America v. Martin Cantu*, in

the United States District Court for the Northern District of Texas, Dallas Division, wherein Respondent was found guilty of Conspiracy to Commit Securities Fraud in violation of 18 U.S.C. § 371 [15 U.S.C. § 78j(b) and 78ff] and Securities Fraud Aiding and Abetting in violation of 15 U.S.C. § 78j(b) and 78ff [17 C.F.R. § 240.10b-5, 18 U.S.C. § 2] and was committed to the custody of the United States Bureau of Prison for a total term of thirty-five (35) months, ordered to pay a restitution in the amount of \$423,938.66. Upon release from imprisonment, Respondent shall be on supervised release for a term of one (1) year. Attached hereto and made a part hereof for all intents and purposes as if the same were copied verbatim herein, are true and correct copies of the following documents in the Cantu criminal case: Indictment (Exhibit 1) and Judgment in a Criminal Case (Exhibit 2). Petitioner expects to introduce certified copies of Exhibits 1 and 2 at the time of hearing of this cause.

5. Respondent, Martin Cantu, Jr., whose bar card number is 03767440, is the same person as the Martin Cantu who is the subject of the Indictment and Judgment described above, true and correct copies of which are attached hereto as Exhibits 1 and 2.

6. Attached hereto as Exhibit 3 and made a part hereof for all intents and purposes as if the same were copied verbatim herein is a true and correct copy of an affidavit of Rebecca (Beth) Stevens, Attorney of Record for Petitioner herein, attesting to the fact that Respondent is the same person as the person who is the subject of the Indictment and Judgment entered in the Cantu criminal case. Petitioner expects to introduce the original of said affidavit at the time of hearing of this cause.

7. The offenses for which Respondent was convicted are intentional crimes as defined by Rule 1.06(T), Texas Rules of Disciplinary Procedure. They are as well serious crimes as defined by Rule 1.06(AA), Texas Rules of Disciplinary Procedure.

8. Having been found guilty of intentional crimes, and such judgment being final, Respondent should be disbarred as provided in Rule 8.05, Texas Rules of Disciplinary Procedure.

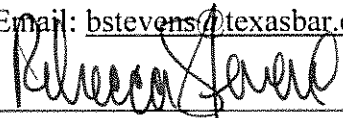
PRAYER

WHEREFORE, PREMISES CONSIDERED, Petitioner prays that Respondent be given notice of these proceedings as provided by law and, upon hearing of this matter, that the Board enter its order disbaring Respondent and for such other and further relief to which Petitioner may be entitled to receive including costs of court and attorney's fees.

Respectfully submitted,

Linda A. Acevedo
Chief Disciplinary Counsel

Rebecca (Beth) Stevens
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Rebecca (Beth) Stevens
State Bar Card No. 24065381

ATTORNEYS FOR PETITIONER

CERTIFICATE OF SERVICE

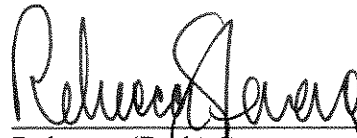
I hereby certify that a true and correct copy of the foregoing instrument has been sent for personal service on Martin Cantu, #25260-380, La Tuna FCI, 8500 Doniphan Road, Anthony, Texas 79821 on this 26th day of May 2016.



Rebecca (Beth) Stevens

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that a trial on the merits of the Petition for Compulsory Discipline heretofore sent to be filed with the Board of Disciplinary Appeals on this day, will be held in the courtroom of the Supreme Court of Texas, Tom C. Clark Building, 14th and Colorado Streets, Austin, Texas, at **9:00 a.m. on the 29th day of July 2016.**



Rebecca (Beth) Stevens

INTERNAL PROCEDURAL RULES

Board of Disciplinary Appeals

Effective February 19, 2015

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SECTION 1: GENERAL PROVISIONS

Rule 1.01 Definitions

- (a) “BODA” is the Board of Disciplinary Appeals.
- (b) “Chair” is the member elected by BODA to serve as chair or, in the Chair’s absence, the member elected by BODA to serve as vice-chair.
- (c) “Classification” is the determination by the CDC under TRDP 2.10 or by BODA under TRDP 7.08(C) whether a grievance constitutes a “complaint” or an “inquiry.”
- (d) “BODA Clerk” is the executive director of BODA or other person appointed by BODA to assume all duties normally performed by the clerk of a court.
- (e) “CDC” is the Chief Disciplinary Counsel for the State Bar of Texas and his or her assistants.
- (f) “Commission” is the Commission for Lawyer Discipline, a permanent committee of the State Bar of Texas.
- (g) “Executive Director” is the executive director of BODA.
- (h) “Panel” is any three-member grouping of BODA under TRDP 7.05.
- (i) “Party” is a Complainant, a Respondent, or the Commission.
- (j) “TDRPC” is the Texas Disciplinary Rules of Professional Conduct.
- (k) “TRAP” is the Texas Rules of Appellate Procedure.
- (l) “TRCP” is the Texas Rules of Civil Procedure.
- (m) “TRDP” is the Texas Rules of Disciplinary Procedure.
- (n) “TRE” is the Texas Rules of Evidence.

Rule 1.02 General Powers

Under TRDP 7.08, BODA has and may exercise all the powers of either a trial court or an appellate court, as the case may be, in hearing and

determining disciplinary proceedings. But TRDP 15.01 applies to the enforcement of a judgment of BODA.

Rule 1.03 Additional Rules in Disciplinary Matters

Except as varied by these rules and to the extent applicable, the TRCP, TRAP, and TRE apply to all disciplinary matters before BODA, except for appeals from classification decisions, which are governed by TRDP 2.10 and by Section 3 of these rules.

Rule 1.04 Appointment of Panels

- (a) BODA may consider any matter or motion by panel, except as specified in (b). The Chair may delegate to the Executive Director the duty to appoint a panel for any BODA action. Decisions are made by a majority vote of the panel; however, any panel member may refer a matter for consideration by BODA sitting en banc. Nothing in these rules gives a party the right to be heard by BODA sitting en banc.
- (b) Any disciplinary matter naming a BODA member as Respondent must be considered by BODA sitting en banc. A disciplinary matter naming a BODA staff member as Respondent need not be heard en banc.

Rule 1.05 Filing of Pleadings, Motions, and Other Papers

- (a) **Electronic Filing.** All documents must be filed electronically. Unrepresented persons or those without the means to file electronically may electronically file documents, but it is not required.
 - (1) **Email Address.** The email address of an attorney or an unrepresented party who electronically files a document must be included on the document.
 - (2) **Timely Filing.** Documents are filed electronically by emailing the document to the BODA Clerk at the email address designated by BODA

for that purpose. A document filed by email will be considered filed the day that the email is sent. The date sent is the date shown for the message in the inbox of the email account designated for receiving filings. If a document is sent after 5:00 p.m. or on a weekend or holiday officially observed by the State of Texas, it is considered filed the next business day.

- (3) It is the responsibility of the party filing a document by email to obtain the correct email address for BODA and to confirm that the document was received by BODA in legible form. Any document that is illegible or that cannot be opened as part of an email attachment will not be considered filed. If a document is untimely due to a technical failure or a system outage, the filing party may seek appropriate relief from BODA.
- (4) **Exceptions.**
 - (i) An appeal to BODA of a decision by the CDC to classify a grievance as an inquiry is not required to be filed electronically.
 - (ii) The following documents must not be filed electronically:
 - a) documents that are filed under seal or subject to a pending motion to seal; and
 - b) documents to which access is otherwise restricted by court order.
 - (iii) For good cause, BODA may permit a party to file other documents in paper form in a particular case.
- (5) **Format.** An electronically filed document must:
 - (i) be in text-searchable portable

document format (PDF);

- (ii) be directly converted to PDF rather than scanned, if possible; and
 - (iii) not be locked.
- (b) A paper will not be deemed filed if it is sent to an individual BODA member or to another address other than the address designated by BODA under Rule 1.05(a)(2).
 - (c) **Signing.** Each brief, motion, or other paper filed must be signed by at least one attorney for the party or by the party pro se and must give the State Bar of Texas card number, mailing address, telephone number, email address, and fax number, if any, of each attorney whose name is signed or of the party (if applicable). A document is considered signed if the document includes:
 - (1) an “/s/” and name typed in the space where the signature would otherwise appear, unless the document is notarized or sworn; or
 - (2) an electronic image or scanned image of the signature.
 - (d) **Paper Copies.** Unless required by BODA, a party need not file a paper copy of an electronically filed document.
 - (e) **Service.** Copies of all documents filed by any party other than the record filed by the evidentiary panel clerk or the court reporter must, at or before the time of filing, be served on all other parties as required and authorized by the TRAP.

Rule 1.06 Service of Petition

In any disciplinary proceeding before BODA initiated by service of a petition on the Respondent, the petition may be served by personal service; by certified mail with return receipt requested; or, if permitted by BODA, in any other manner that is authorized by the TRCP and reasonably calculated under all the circumstances to apprise the Respondent of the proceeding and to give him or

her reasonable time to appear and answer. To establish service by certified mail, the return receipt must contain the Respondent's signature.

Rule 1.07 Hearing Setting and Notice

- (a) **Original Petitions.** In any kind of case initiated by the CDC's filing a petition or motion with BODA, the CDC may contact the BODA Clerk for the next regularly available hearing date before filing the original petition. If a hearing is set before the petition is filed, the petition must state the date, time, and place of the hearing. Except in the case of a petition to revoke probation under TRDP 2.23, the hearing date must be at least 30 days from the date that the petition is served on the Respondent.
- (b) **Expedited Settings.** If a party desires a hearing on a matter on a date earlier than the next regularly available BODA hearing date, the party may request an expedited setting in a written motion setting out the reasons for the request. Unless the parties agree otherwise, and except in the case of a petition to revoke probation under TRDP 2.23, the expedited hearing setting must be at least 30 days from the date of service of the petition, motion, or other pleading. BODA has the sole discretion to grant or deny a request for an expedited hearing date.
- (c) **Setting Notices.** BODA must notify the parties of any hearing date that is not noticed in an original petition or motion.
- (d) **Announcement Docket.** Attorneys and parties appearing before BODA must confirm their presence and present any questions regarding procedure to the BODA Clerk in the courtroom immediately prior to the time docket call is scheduled to begin. Each party with a matter on the docket must appear at the docket call to give an announcement of readiness, to give a time estimate for the hearing, and to present any preliminary motions or matters. Immediately

following the docket call, the Chair will set and announce the order of cases to be heard.

Rule 1.08 Time to Answer

The Respondent may file an answer at any time, except where expressly provided otherwise by these rules or the TRDP, or when an answer date has been set by prior order of BODA. BODA may, but is not required to, consider an answer filed the day of the hearing.

Rule 1.09 Pretrial Procedure

- (a) **Motions.**
 - (1) **Generally.** To request an order or other relief, a party must file a motion supported by sufficient cause with proof of service on all other parties. The motion must state with particularity the grounds on which it is based and set forth the relief sought. All supporting briefs, affidavits, or other documents must be served and filed with the motion. A party may file a response to a motion at any time before BODA rules on the motion or by any deadline set by BODA. Unless otherwise required by these rules or the TRDP, the form of a motion must comply with the TRCP or the TRAP.
 - (2) **For Extension of Time.** All motions for extension of time in any matter before BODA must be in writing, comply with (a)(1), and specify the following:
 - (i) if applicable, the date of notice of decision of the evidentiary panel, together with the number and style of the case;
 - (ii) if an appeal has been perfected, the date when the appeal was perfected;
 - (iii) the original deadline for filing the item in question;

- (iv) the length of time requested for the extension;
 - (v) the number of extensions of time that have been granted previously regarding the item in question; and
 - (vi) the facts relied on to reasonably explain the need for an extension.
- (b) **Pretrial Scheduling Conference.** Any party may request a pretrial scheduling conference, or BODA on its own motion may require a pretrial scheduling conference.
- (c) **Trial Briefs.** In any disciplinary proceeding before BODA, except with leave, all trial briefs and memoranda must be filed with the BODA Clerk no later than ten days before the day of the hearing.
- (d) **Hearing Exhibits, Witness Lists, and Exhibits Tendered for Argument.** A party may file a witness list, exhibit, or any other document to be used at a hearing or oral argument before the hearing or argument. A party must bring to the hearing an original and 12 copies of any document that was not filed at least one business day before the hearing. The original and copies must be:
 - (1) marked;
 - (2) indexed with the title or description of the item offered as an exhibit; and
 - (3) if voluminous, bound to lie flat when open and tabbed in accordance with the index.

All documents must be marked and provided to the opposing party before the hearing or argument begins.

Rule 1.10 Decisions

- (a) **Notice of Decisions.** The BODA Clerk must give notice of all decisions and opinions to the parties or their attorneys of record.

- (b) **Publication of Decisions.** BODA must report judgments or orders of public discipline:
 - (1) as required by the TRDP; and
 - (2) on its website for a period of at least ten years following the date of the disciplinary judgment or order.
- (c) **Abstracts of Classification Appeals.** BODA may, in its discretion, prepare an abstract of a classification appeal for a public reporting service.

Rule 1.11 Board of Disciplinary Appeals Opinions

- (a) BODA may render judgment in any disciplinary matter with or without written opinion. In accordance with TRDP 6.06, all written opinions of BODA are open to the public and must be made available to the public reporting services, print or electronic, for publishing. A majority of the members who participate in considering the disciplinary matter must determine if an opinion will be written. The names of the participating members must be noted on all written opinions of BODA.
- (b) Only a BODA member who participated in the decision of a disciplinary matter may file or join in a written opinion concurring in or dissenting from the judgment of BODA. For purposes of this rule, in hearings in which evidence is taken, no member may participate in the decision unless that member was present at the hearing. In all other proceedings, no member may participate unless that member has reviewed the record. Any member of BODA may file a written opinion in connection with the denial of a hearing or rehearing en banc.
- (c) A BODA determination in an appeal from a grievance classification decision under TRDP 2.10 is not a judgment for purposes of this rule and may be issued without a written opinion.

Rule 1.12 BODA Work Product and Drafts

A document or record of any nature—regardless of its form, characteristics, or means of transmission—that is created or produced in connection with or related to BODA’s adjudicative decision-making process is not subject to disclosure or discovery. This includes documents prepared by any BODA member, BODA staff, or any other person acting on behalf of or at the direction of BODA.

Rule 1.13 Record Retention

Records of appeals from classification decisions must be retained by the BODA Clerk for a period of at least three years from the date of disposition. Records of other disciplinary matters must be retained for a period of at least five years from the date of final judgment, or for at least one year after the date a suspension or disbarment ends, whichever is later. For purposes of this rule, a record is any document, paper, letter, map, book, tape, photograph, film, recording, or other material filed with BODA, regardless of its form, characteristics, or means of transmission.

Rule 1.14 Costs of Reproduction of Records

The BODA Clerk may charge a reasonable amount for the reproduction of nonconfidential records filed with BODA. The fee must be paid in advance to the BODA Clerk.

Rule 1.15 Publication of These Rules

These rules will be published as part of the TDRPC and TRDP.

SECTION 2: ETHICAL CONSIDERATIONS

Rule 2.01 Representing or Counseling Parties in Disciplinary Matters and Legal Malpractice Cases

- (a) A current member of BODA must not represent a party or testify voluntarily in a disciplinary action or proceeding. Any BODA member who is subpoenaed or otherwise compelled to appear at a disciplinary action or proceeding, including at a deposition, must promptly notify the BODA Chair.

- (b) A current BODA member must not serve as an expert witness on the TDRPC.
- (c) A BODA member may represent a party in a legal malpractice case, provided that he or she is later recused in accordance with these rules from any proceeding before BODA arising out of the same facts.

Rule 2.02 Confidentiality

- (a) BODA deliberations are confidential, must not be disclosed by BODA members or staff, and are not subject to disclosure or discovery.
- (b) Classification appeals, appeals from evidentiary judgments of private reprimand, appeals from an evidentiary judgment dismissing a case, interlocutory appeals or any interim proceedings from an ongoing evidentiary case, and disability cases are confidential under the TRDP. BODA must maintain all records associated with these cases as confidential, subject to disclosure only as provided in the TRDP and these rules.
- (c) If a member of BODA is subpoenaed or otherwise compelled by law to testify in any proceeding, the member must not disclose a matter that was discussed in conference in connection with a disciplinary case unless the member is required to do so by a court of competent jurisdiction.

Rule 2.03 Disqualification and Recusal of BODA Members

- (a) BODA members are subject to disqualification and recusal as provided in TRCP 18b.
- (b) BODA members may, in addition to recusals under (a), voluntarily recuse themselves from any discussion and voting for any reason. The reasons that a BODA member is recused from a case are not subject to discovery.
- (c) These rules do not disqualify a lawyer who is a member of, or associated with,

the law firm of a BODA member from serving on a grievance committee or representing a party in a disciplinary proceeding or legal malpractice case. But a BODA member must recuse him- or herself from any matter in which a lawyer who is a member of, or associated with, the BODA member's firm is a party or represents a party.

SECTION 3: CLASSIFICATION APPEALS

Rule 3.01 Notice of Right to Appeal

- (a) If a grievance filed by the Complainant under TRDP 2.10 is classified as an inquiry, the CDC must notify the Complainant of his or her right to appeal as set out in TRDP 2.10 or another applicable rule.
- (b) To facilitate the potential filing of an appeal of a grievance classified as an inquiry, the CDC must send the Complainant an appeal notice form, approved by BODA, with the classification disposition. The form must include the docket number of the matter; the deadline for appealing; and information for mailing, faxing, or emailing the appeal notice form to BODA. The appeal notice form must be available in English and Spanish.

Rule 3.02 Record on Appeal

BODA must only consider documents that were filed with the CDC prior to the classification decision. When a notice of appeal from a classification decision has been filed, the CDC must forward to BODA a copy of the grievance and all supporting documentation. If the appeal challenges the classification of an amended grievance, the CDC must also send BODA a copy of the initial grievance, unless it has been destroyed.

SECTION 4: APPEALS FROM EVIDENTIARY PANEL HEARINGS

Rule 4.01 Perfecting Appeal

- (a) **Appellate Timetable.** The date that the evidentiary judgment is signed starts the

appellate timetable under this section. To make TRDP 2.21 consistent with this requirement, the date that the judgment is signed is the "date of notice" under Rule 2.21.

- (b) **Notification of the Evidentiary Judgment.** The clerk of the evidentiary panel must notify the parties of the judgment as set out in TRDP 2.21.

- (1) The evidentiary panel clerk must notify the Commission and the Respondent in writing of the judgment. The notice must contain a clear statement that any appeal of the judgment must be filed with BODA within 30 days of the date that the judgment was signed. The notice must include a copy of the judgment rendered.

- (2) The evidentiary panel clerk must notify the Complainant that a judgment has been rendered and provide a copy of the judgment, unless the evidentiary panel dismissed the case or imposed a private reprimand. In the case of a dismissal or private reprimand, the evidentiary panel clerk must notify the Complainant of the decision and that the contents of the judgment are confidential. Under TRDP 2.16, no additional information regarding the contents of a judgment of dismissal or private reprimand may be disclosed to the Complainant.

- (c) **Filing Notice of Appeal.** An appeal is perfected when a written notice of appeal is filed with BODA. If a notice of appeal and any other accompanying documents are mistakenly filed with the evidentiary panel clerk, the notice is deemed to have been filed the same day with BODA, and the evidentiary panel clerk must immediately send the BODA Clerk a copy of the notice and any accompanying documents.

- (d) **Time to File.** In accordance with TRDP 2.24, the notice of appeal must be filed within 30 days after the date the judgment is signed. In the event a motion for new trial or motion to modify the judgment is timely filed with the evidentiary panel, the notice of appeal must be filed with BODA within 90 days from the date the judgment is signed.
- (e) **Extension of Time.** A motion for an extension of time to file the notice of appeal must be filed no later than 15 days after the last day allowed for filing the notice of appeal. The motion must comply with Rule 1.09.

Rule 4.02 Record on Appeal

- (a) **Contents.** The record on appeal consists of the evidentiary panel clerk's record and, where necessary to the appeal, a reporter's record of the evidentiary panel hearing.
- (b) **Stipulation as to Record.** The parties may designate parts of the clerk's record and the reporter's record to be included in the record on appeal by written stipulation filed with the clerk of the evidentiary panel.
- (c) **Responsibility for Filing Record.**
 - (1) Clerk's Record.
 - (i) After receiving notice that an appeal has been filed, the clerk of the evidentiary panel is responsible for preparing, certifying, and timely filing the clerk's record.
 - (ii) Unless the parties stipulate otherwise, the clerk's record on appeal must contain the items listed in TRAP 34.5(a) and any other paper on file with the evidentiary panel, including the election letter, all pleadings on which the hearing was held, the docket sheet, the evidentiary panel's charge, any findings of

fact and conclusions of law, all other pleadings, the judgment or other orders appealed from, the notice of decision sent to each party, any postsubmission pleadings and briefs, and the notice of appeal.

- (iii) If the clerk of the evidentiary panel is unable for any reason to prepare and transmit the clerk's record by the due date, he or she must promptly notify BODA and the parties, explain why the clerk's record cannot be timely filed, and give the date by which he or she expects the clerk's record to be filed.

(2) Reporter's Record.

- (i) The court reporter for the evidentiary panel is responsible for timely filing the reporter's record if:
 - a) a notice of appeal has been filed;
 - b) a party has requested that all or part of the reporter's record be prepared; and
 - c) the party requesting all or part of the reporter's record has paid the reporter's fee or has made satisfactory arrangements with the reporter.
- (ii) If the court reporter is unable for any reason to prepare and transmit the reporter's record by the due date, he or she must promptly notify BODA and the parties, explain the reasons why the reporter's record cannot be timely filed, and give the date by which he or she expects the reporter's record to be filed.

(d) Preparation of Clerk's Record.

- (1) To prepare the clerk's record, the

evidentiary panel clerk must:

- (i) gather the documents designated by the parties' written stipulation or, if no stipulation was filed, the documents required under (c)(1)(ii);
 - (ii) start each document on a new page;
 - (iii) include the date of filing on each document;
 - (iv) arrange the documents in chronological order, either by the date of filing or the date of occurrence;
 - (v) number the pages of the clerk's record in the manner required by (d)(2);
 - (vi) prepare and include, after the front cover of the clerk's record, a detailed table of contents that complies with (d)(3); and
 - (vii) certify the clerk's record.
- (2) The clerk must start the page numbering on the front cover of the first volume of the clerk's record and continue to number all pages consecutively—including the front and back covers, tables of contents, certification page, and separator pages, if any—until the final page of the clerk's record, without regard for the number of volumes in the clerk's record, and place each page number at the bottom of each page.
- (3) The table of contents must:
- (i) identify each document in the entire record (including sealed documents); the date each document was filed; and, except for sealed documents, the page on which each

document begins;

- (ii) be double-spaced;
 - (iii) conform to the order in which documents appear in the clerk's record, rather than in alphabetical order;
 - (iv) contain bookmarks linking each description in the table of contents (except for descriptions of sealed documents) to the page on which the document begins; and
 - (v) if the record consists of multiple volumes, indicate the page on which each volume begins.
- (e) **Electronic Filing of the Clerk's Record.** The evidentiary panel clerk must file the record electronically. When filing a clerk's record in electronic form, the evidentiary panel clerk must:
- (1) file each computer file in text-searchable Portable Document Format (PDF);
 - (2) create electronic bookmarks to mark the first page of each document in the clerk's record;
 - (3) limit the size of each computer file to 100 MB or less, if possible; and
 - (4) directly convert, rather than scan, the record to PDF, if possible.
- (f) **Preparation of the Reporter's Record.**
- (1) The appellant, at or before the time prescribed for perfecting the appeal, must make a written request for the reporter's record to the court reporter for the evidentiary panel. The request must designate the portion of the evidence and other proceedings to be included. A copy of the request must be filed with the evidentiary panel and BODA and must be served on the appellee. The

reporter's record must be certified by the court reporter for the evidentiary panel.

- (2) The court reporter or recorder must prepare and file the reporter's record in accordance with TRAP 34.6 and 35 and the Uniform Format Manual for Texas Reporters' Records.
- (3) The court reporter or recorder must file the reporter's record in an electronic format by emailing the document to the email address designated by BODA for that purpose.
- (4) The court reporter or recorder must include either a scanned image of any required signature or "/s/" and name typed in the space where the signature would otherwise appear.
- (5) A court reporter or recorder must not lock any document that is part of the record.
- (6) In exhibit volumes, the court reporter or recorder must create bookmarks to mark the first page of each exhibit document.
- (g) **Other Requests.** At any time before the clerk's record is prepared, or within ten days after service of a copy of appellant's request for the reporter's record, any party may file a written designation requesting that additional exhibits and portions of testimony be included in the record. The request must be filed with the evidentiary panel and BODA and must be served on the other party.
- (h) **Inaccuracies or Defects.** If the clerk's record is found to be defective or inaccurate, the BODA Clerk must inform the clerk of the evidentiary panel of the defect or inaccuracy and instruct the clerk to make the correction. Any inaccuracies in the reporter's record may be corrected by agreement of the parties without the court reporter's recertification. Any dispute regarding the reporter's record

that the parties are unable to resolve by agreement must be resolved by the evidentiary panel.

- (i) **Appeal from Private Reprimand.** Under TRDP 2.16, in an appeal from a judgment of private reprimand, BODA must mark the record as confidential, remove the attorney's name from the case style, and take any other steps necessary to preserve the confidentiality of the private reprimand.

Rule 4.03 Time to File Record

- (a) **Timetable.** The clerk's record and reporter's record must be filed within 60 days after the date the judgment is signed. If a motion for new trial or motion to modify the judgment is filed with the evidentiary panel, the clerk's record and the reporter's record must be filed within 120 days from the date the original judgment is signed, unless a modified judgment is signed, in which case the clerk's record and the reporter's record must be filed within 60 days of the signing of the modified judgment. Failure to file either the clerk's record or the reporter's record on time does not affect BODA's jurisdiction, but may result in BODA's exercising its discretion to dismiss the appeal, affirm the judgment appealed from, disregard materials filed late, or apply presumptions against the appellant.
- (b) **If No Record Filed.**
 - (1) If the clerk's record or reporter's record has not been timely filed, the BODA Clerk must send notice to the party responsible for filing it, stating that the record is late and requesting that the record be filed within 30 days. The BODA Clerk must send a copy of this notice to all the parties and the clerk of the evidentiary panel.
 - (2) If no reporter's record is filed due to appellant's fault, and if the clerk's

record has been filed, BODA may, after first giving the appellant notice and a reasonable opportunity to cure, consider and decide those issues or points that do not require a reporter's record for a decision. BODA may do this if no reporter's record has been filed because:

- (i) the appellant failed to request a reporter's record; or
 - (ii) the appellant failed to pay or make arrangements to pay the reporter's fee to prepare the reporter's record, and the appellant is not entitled to proceed without payment of costs.
- (c) **Extension of Time to File the Reporter's Record.** When an extension of time is requested for filing the reporter's record, the facts relied on to reasonably explain the need for an extension must be supported by an affidavit of the court reporter. The affidavit must include the court reporter's estimate of the earliest date when the reporter's record will be available for filing.
- (d) **Supplemental Record.** If anything material to either party is omitted from the clerk's record or reporter's record, BODA may, on written motion of a party or on its own motion, direct a supplemental record to be certified and transmitted by the clerk for the evidentiary panel or the court reporter for the evidentiary panel.

Rule 4.04 Copies of the Record

The record may not be withdrawn from the custody of the BODA Clerk. Any party may obtain a copy of the record or any designated part thereof by making a written request to the BODA Clerk and paying any charges for reproduction in advance.

Rule 4.05 Requisites of Briefs

- (a) **Appellant's Filing Date.** Appellant's brief must be filed within 30 days after

the clerk's record or the reporter's record is filed, whichever is later.

- (b) **Appellee's Filing Date.** Appellee's brief must be filed within 30 days after the appellant's brief is filed.
- (c) **Contents.** Briefs must contain:
- (1) a complete list of the names and addresses of all parties to the final decision and their counsel;
 - (2) a table of contents indicating the subject matter of each issue or point, or group of issues or points, with page references where the discussion of each point relied on may be found;
 - (3) an index of authorities arranged alphabetically and indicating the pages where the authorities are cited;
 - (4) a statement of the case containing a brief general statement of the nature of the cause or offense and the result;
 - (5) a statement, without argument, of the basis of BODA's jurisdiction;
 - (6) a statement of the issues presented for review or points of error on which the appeal is predicated;
 - (7) a statement of facts that is without argument, is supported by record references, and details the facts relating to the issues or points relied on in the appeal;
 - (8) the argument and authorities;
 - (9) conclusion and prayer for relief;
 - (10) a certificate of service; and
 - (11) an appendix of record excerpts pertinent to the issues presented for review.
- (d) **Length of Briefs; Contents Included and Excluded.** In calculating the length of a document, every word and every part

of the document, including headings, footnotes, and quotations, must be counted except the following: caption, identity of the parties and counsel, statement regarding oral argument, table of contents, index of authorities, statement of the case, statement of issues presented, statement of the jurisdiction, signature, proof of service, certificate of compliance, and appendix. Briefs must not exceed 15,000 words if computer-generated, and 50 pages if not, except on leave of BODA. A reply brief must not exceed 7,500 words if computer-generated, and 25 pages if not, except on leave of BODA. A computer-generated document must include a certificate by counsel or the unrepresented party stating the number of words in the document. The person who signs the certification may rely on the word count of the computer program used to prepare the document.

- (e) **Amendment or Supplementation.** BODA has discretion to grant leave to amend or supplement briefs.
- (f) **Failure of the Appellant to File a Brief.** If the appellant fails to timely file a brief, BODA may:
 - (1) dismiss the appeal for want of prosecution, unless the appellant reasonably explains the failure, and the appellee is not significantly injured by the appellant's failure to timely file a brief;
 - (2) decline to dismiss the appeal and make further orders within its discretion as it considers proper; or
 - (3) if an appellee's brief is filed, regard that brief as correctly presenting the case and affirm the evidentiary panel's judgment on that brief without examining the record.

Rule 4.06 Oral Argument

- (a) **Request.** A party desiring oral argument must note the request on the front cover of the party's brief. A party's failure to

timely request oral argument waives the party's right to argue. A party who has requested argument may later withdraw the request. But even if a party has waived oral argument, BODA may direct the party to appear and argue. If oral argument is granted, the clerk will notify the parties of the time and place for submission.

- (b) **Right to Oral Argument.** A party who has filed a brief and who has timely requested oral argument may argue the case to BODA unless BODA, after examining the briefs, decides that oral argument is unnecessary for any of the following reasons:
 - (1) the appeal is frivolous;
 - (2) the dispositive issue or issues have been authoritatively decided;
 - (3) the facts and legal arguments are adequately presented in the briefs and record; or
 - (4) the decisional process would not be significantly aided by oral argument.
- (c) **Time Allowed.** Each party will have 20 minutes to argue. BODA may, on the request of a party or on its own, extend or shorten the time allowed for oral argument. The appellant may reserve a portion of his or her allotted time for rebuttal.

Rule 4.07 Decision and Judgment

- (a) **Decision.** BODA may do any of the following:
 - (1) affirm in whole or in part the decision of the evidentiary panel;
 - (2) modify the panel's findings and affirm the findings as modified;
 - (3) reverse in whole or in part the panel's findings and render the decision that the panel should have rendered; or
 - (4) reverse the panel's findings and

remand the cause for further proceedings to be conducted by:

- (i) the panel that entered the findings; or
 - (ii) a statewide grievance committee panel appointed by BODA and composed of members selected from the state bar districts other than the district from which the appeal was taken.
- (b) **Mandate.** In every appeal, the BODA Clerk must issue a mandate in accordance with BODA's judgment and send it to the evidentiary panel and to all the parties.

Rule 4.08 Appointment of Statewide Grievance Committee

If BODA remands a cause for further proceedings before a statewide grievance committee, the BODA Chair will appoint the statewide grievance committee in accordance with TRDP 2.27. The committee must consist of six members: four attorney members and two public members randomly selected from the current pool of grievance committee members. Two alternates, consisting of one attorney and one public member, must also be selected. BODA will appoint the initial chair who will serve until the members of the statewide grievance committee elect a chair of the committee at the first meeting. The BODA Clerk will notify the Respondent and the CDC that a committee has been appointed.

Rule 4.09 Involuntary Dismissal

Under the following circumstances and on any party's motion or on its own initiative after giving at least ten days' notice to all parties, BODA may dismiss the appeal or affirm the appealed judgment or order. Dismissal or affirmance may occur if the appeal is subject to dismissal:

- (a) for want of jurisdiction;
- (b) for want of prosecution; or
- (c) because the appellant has failed to comply with a requirement of these rules, a court order, or a notice from the clerk requiring

a response or other action within a specified time.

SECTION 5: PETITIONS TO REVOKE PROBATION

Rule 5.01 Initiation and Service

- (a) Before filing a motion to revoke the probation of an attorney who has been sanctioned, the CDC must contact the BODA Clerk to confirm whether the next regularly available hearing date will comply with the 30-day requirement of TRDP. The Chair may designate a three-member panel to hear the motion, if necessary, to meet the 30-day requirement of TRDP 2.23.
- (b) Upon filing the motion, the CDC must serve the Respondent with the motion and any supporting documents in accordance with TRDP 2.23, the TRCP, and these rules. The CDC must notify BODA of the date that service is obtained on the Respondent.

Rule 5.02 Hearing

Within 30 days of service of the motion on the Respondent, BODA must docket and set the matter for a hearing and notify the parties of the time and place of the hearing. On a showing of good cause by a party or on its own motion, BODA may continue the case to a future hearing date as circumstances require.

SECTION 6: COMPULSORY DISCIPLINE

Rule 6.01 Initiation of Proceeding

Under TRDP 8.03, the CDC must file a petition for compulsory discipline with BODA and serve the Respondent in accordance with the TRDP and Rule 1.06 of these rules.

Rule 6.02 Interlocutory Suspension

- (a) **Interlocutory Suspension.** In any compulsory proceeding under TRDP Part VIII in which BODA determines that the Respondent has been convicted of an Intentional Crime and that the criminal conviction is on direct appeal, BODA may suspend the Respondent's license to

practice law by interlocutory order. In any compulsory case in which BODA has imposed an interlocutory order of suspension, BODA retains jurisdiction to render final judgment after the direct appeal of the criminal conviction is final. For purposes of rendering final judgment in a compulsory discipline case, the direct appeal of the criminal conviction is final when the appellate court issues its mandate.

- (b) **Criminal Conviction Affirmed.** If the criminal conviction made the basis of a compulsory interlocutory suspension is affirmed and becomes final, the CDC must file a motion for final judgment that complies with TRDP 8.05.

- (1) If the criminal sentence is fully probated or is an order of deferred adjudication, the motion for final judgment must contain notice of a hearing date. The motion will be set on BODA's next available hearing date.
- (2) If the criminal sentence is not fully probated:
 - (i) BODA may proceed to decide the motion without a hearing if the attorney does not file a verified denial within ten days of service of the motion; or
 - (ii) BODA may set the motion for a hearing on the next available hearing date if the attorney timely files a verified denial.
- (c) **Criminal Conviction Reversed.** If an appellate court issues a mandate reversing the criminal conviction while a Respondent is subject to an interlocutory suspension, the Respondent may file a motion to terminate the interlocutory suspension. The motion to terminate the interlocutory suspension must have certified copies of the decision and mandate of the reversing court

attached. If the CDC does not file an opposition to the termination within ten days of being served with the motion, BODA may proceed to decide the motion without a hearing or set the matter for a hearing on its own motion. If the CDC timely opposes the motion, BODA must set the motion for a hearing on its next available hearing date. An order terminating an interlocutory order of suspension does not automatically reinstate a Respondent's license.

SECTION 7: RECIPROCAL DISCIPLINE

Rule 7.01 Initiation of Proceeding

The Commission for Lawyer Discipline may initiate an action for reciprocal discipline by filing a petition with BODA under TRDP Part IX and these rules. The petition must request that the Respondent be disciplined in Texas and have attached to it any information concerning the disciplinary matter from the other jurisdiction, including a certified copy of the order or judgment rendered against the Respondent.

Rule 7.02 Order to Show Cause

When a petition is filed, the Chair immediately issues a show cause order and a hearing notice and forwards them to the CDC, who must serve the order and notice on the Respondent. The CDC must notify BODA of the date that service is obtained.

Rule 7.03 Attorney's Response

If the Respondent does not file an answer within 30 days of being served with the order and notice but thereafter appears at the hearing, BODA may, at the discretion of the Chair, receive testimony from the Respondent relating to the merits of the petition.

SECTION 8: DISTRICT DISABILITY COMMITTEE HEARINGS

Rule 8.01 Appointment of District Disability Committee

- (a) If the evidentiary panel of the grievance committee finds under TRDP 2.17(P)(2),

or the CDC reasonably believes under TRDP 2.14(C), that a Respondent is suffering from a disability, the rules in this section will apply to the de novo proceeding before the District Disability Committee held under TRDP Part XII.

- (b) Upon receiving an evidentiary panel's finding or the CDC's referral that an attorney is believed to be suffering from a disability, the BODA Chair must appoint a District Disability Committee in compliance with TRDP 12.02 and designate a chair. BODA will reimburse District Disability Committee members for reasonable expenses directly related to service on the District Disability Committee. The BODA Clerk must notify the CDC and the Respondent that a committee has been appointed and notify the Respondent where to locate the procedural rules governing disability proceedings.
- (c) A Respondent who has been notified that a disability referral will be or has been made to BODA may, at any time, waive in writing the appointment of the District Disability Committee or the hearing before the District Disability Committee and enter into an agreed judgment of indefinite disability suspension, provided that the Respondent is competent to waive the hearing. If the Respondent is not represented, the waiver must include a statement affirming that the Respondent has been advised of the right to appointed counsel and waives that right as well.
- (d) All pleadings, motions, briefs, or other matters to be filed with the District Disability Committee must be filed with the BODA Clerk.
- (e) Should any member of the District Disability Committee become unable to serve, the BODA Chair may appoint a substitute member.

Rule 8.02 Petition and Answer

- (a) **Petition.** Upon being notified that the District Disability Committee has been appointed by BODA, the CDC must, within 20 days, file with the BODA Clerk and serve on the Respondent a copy of a petition for indefinite disability suspension. Service may be made in person or by certified mail, return receipt requested. If service is by certified mail, the return receipt with the Respondent's signature must be filed with the BODA Clerk.
- (b) **Answer.** The Respondent must, within 30 days after service of the petition for indefinite disability suspension, file an answer with the BODA Clerk and serve a copy of the answer on the CDC.
- (c) **Hearing Setting.** The BODA Clerk must set the final hearing as instructed by the chair of the District Disability Committee and send notice of the hearing to the parties.

Rule 8.03 Discovery

- (a) **Limited Discovery.** The District Disability Committee may permit limited discovery. The party seeking discovery must file with the BODA Clerk a written request that makes a clear showing of good cause and substantial need and a proposed order. If the District Disability Committee authorizes discovery in a case, it must issue a written order. The order may impose limitations or deadlines on the discovery.
- (b) **Physical or Mental Examinations.** On written motion by the Commission or on its own motion, the District Disability Committee may order the Respondent to submit to a physical or mental examination by a qualified healthcare or mental healthcare professional. Nothing in this rule limits the Respondent's right to an examination by a professional of his or her choice in addition to any exam

ordered by the District Disability Committee.

- (1) **Motion.** The Respondent must be given reasonable notice of the examination by written order specifying the name, address, and telephone number of the person conducting the examination.
- (2) **Report.** The examining professional must file with the BODA Clerk a detailed, written report that includes the results of all tests performed and the professional's findings, diagnoses, and conclusions. The professional must send a copy of the report to the CDC and the Respondent.
- (c) **Objections.** A party must make any objection to a request for discovery within 15 days of receiving the motion by filing a written objection with the BODA Clerk. BODA may decide any objection or contest to a discovery motion.

Rule 8.04 Ability to Compel Attendance

The Respondent and the CDC may confront and cross-examine witnesses at the hearing. Compulsory process to compel the attendance of witnesses by subpoena, enforceable by an order of a district court of proper jurisdiction, is available to the Respondent and the CDC as provided in TRCP 176.

Rule 8.05 Respondent's Right to Counsel

- (a) The notice to the Respondent that a District Disability Committee has been appointed and the petition for indefinite disability suspension must state that the Respondent may request appointment of counsel by BODA to represent him or her at the disability hearing. BODA will reimburse appointed counsel for reasonable expenses directly related to representation of the Respondent.
- (b) To receive appointed counsel under TRDP 12.02, the Respondent must file a written request with the BODA Clerk

within 30 days of the date that Respondent is served with the petition for indefinite disability suspension. A late request must demonstrate good cause for the Respondent's failure to file a timely request.

Rule 8.06 Hearing

The party seeking to establish the disability must prove by a preponderance of the evidence that the Respondent is suffering from a disability as defined in the TRDP. The chair of the District Disability Committee must admit all relevant evidence that is necessary for a fair and complete hearing. The TRE are advisory but not binding on the chair.

Rule 8.07 Notice of Decision

The District Disability Committee must certify its finding regarding disability to BODA, which will issue the final judgment in the matter.

Rule 8.08 Confidentiality

All proceedings before the District Disability Committee and BODA, if necessary, are closed to the public. All matters before the District Disability Committee are confidential and are not subject to disclosure or discovery, except as allowed by the TRDP or as may be required in the event of an appeal to the Supreme Court of Texas.

SECTION 9: DISABILITY REINSTATEMENTS

Rule 9.01 Petition for Reinstatement

- (a) An attorney under an indefinite disability suspension may, at any time after he or she has been suspended, file a verified petition with BODA to have the suspension terminated and to be reinstated to the practice of law. The petitioner must serve a copy of the petition on the CDC in the manner required by TRDP 12.06. The TRCP apply to a reinstatement proceeding unless they conflict with these rules.
- (b) The petition must include the information required by TRDP 12.06. If the judgment of disability suspension contained terms

or conditions relating to misconduct by the petitioner prior to the suspension, the petition must affirmatively demonstrate that those terms have been complied with or explain why they have not been satisfied. The petitioner has a duty to amend and keep current all information in the petition until the final hearing on the merits. Failure to do so may result in dismissal without notice.

- (c) Disability reinstatement proceedings before BODA are not confidential; however, BODA may make all or any part of the record of the proceeding confidential.

Rule 9.02 Discovery

The discovery period is 60 days from the date that the petition for reinstatement is filed. The BODA Clerk will set the petition for a hearing on the first date available after the close of the discovery period and must notify the parties of the time and place of the hearing. BODA may continue the hearing for good cause shown.

Rule 9.03 Physical or Mental Examinations

- (a) On written motion by the Commission or on its own, BODA may order the petitioner seeking reinstatement to submit to a physical or mental examination by a qualified healthcare or mental healthcare professional. The petitioner must be served with a copy of the motion and given at least seven days to respond. BODA may hold a hearing before ruling on the motion but is not required to do so.
- (b) The petitioner must be given reasonable notice of the examination by written order specifying the name, address, and telephone number of the person conducting the examination.
- (c) The examining professional must file a detailed, written report that includes the results of all tests performed and the professional's findings, diagnoses, and conclusions. The professional must send a copy of the report to the parties.

- (d) If the petitioner fails to submit to an examination as ordered, BODA may dismiss the petition without notice.
- (e) Nothing in this rule limits the petitioner's right to an examination by a professional of his or her choice in addition to any exam ordered by BODA.

Rule 9.04 Judgment

If, after hearing all the evidence, BODA determines that the petitioner is not eligible for reinstatement, BODA may, in its discretion, either enter an order denying the petition or direct that the petition be held in abeyance for a reasonable period of time until the petitioner provides additional proof as directed by BODA. The judgment may include other orders necessary to protect the public and the petitioner's potential clients.

SECTION 10: APPEALS FROM BODA TO THE SUPREME COURT OF TEXAS

Rule 10.01 Appeals to the Supreme Court

- (a) A final decision by BODA, except a determination that a statement constitutes an inquiry or a complaint under TRDP 2.10, may be appealed to the Supreme Court of Texas. The clerk of the Supreme Court of Texas must docket an appeal from a decision by BODA in the same manner as a petition for review without fee.
- (b) The appealing party must file the notice of appeal directly with the clerk of the Supreme Court of Texas within 14 days of receiving notice of a final determination by BODA. The record must be filed within 60 days after BODA's determination. The appealing party's brief is due 30 days after the record is filed, and the responding party's brief is due 30 days thereafter. The BODA Clerk must send the parties a notice of BODA's final decision that includes the information in this paragraph.
- (c) An appeal to the Supreme Court is governed by TRDP 7.11 and the TRAP.

ORIGINAL

SEALED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED

SEP 11 2013

CLERK, U.S. DISTRICT COURT
By _____ Deputy *NT*

UNITED STATES OF AMERICA

v.

JASON WYNN (1)
MARTIN CANTU (2)

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§
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§
§

FILED UNDER SEAL

INDICTMENT

8-13 CR-347-K

The Grand Jury Charges:

Introduction

1. Beginning no later than May 2007 and continuing until in or about October 2007, defendants **Jason Wynn** and **Martin Cantu** knowingly and willfully conspired with each other, and with others known and unknown to the grand jury, to commit securities fraud by deceiving potential investors regarding ConnectAJet.com, Inc. (CAJT or the company). CAJT was a company that purportedly would provide the first online real-time booking system for private jet charters, similar to other well-known online booking systems.

2. The company's business operations were controlled and managed by defendants **Wynn** and **Cantu**. As part of their scheme to defraud potential investors, defendants **Wynn** and **Cantu** caused public statements and advertisements to be issued that included numerous false and misleading statements, about: (1) the progress and status of the company's real-time booking system, (2) CAJT's relationships with

reputable companies, and (3) CAJT's customer base.

3. These false and misleading statements increased demand for CAJT shares, allowing the defendants and their co-conspirators to sell CAJT shares that they controlled at artificially inflated prices.

Defendants, Co-Conspirators, and Entities

At all times relevant to this Indictment:

4. Defendant **Jason Wynn** worked as a penny-stock promoter, used-car salesman, and consultant. **Wynn** owned and controlled several corporate entities, including Wynn Holdings, LLC and Wynn Industries, LLC.

5. Defendant **Martin Cantu** owned the majority of shares of CAJT.

6. From in or about July 2007 until on or about October 1, 2007, CAJT's stock was quoted on the Pink Sheets under the symbol "CAJT." On or about October 1, 2007, the Securities and Exchange Commission (SEC) suspended trading of CAJT's stock.

7. Wynn Holdings, LLC was a Minnesota limited liability company with its principal place of business in Dallas, in the Northern District of Texas. It had no business operations other than promotion of unregistered penny stock offerings. Wynn Holdings distributed shares in CAJT's August 2007 unregistered stock offering and promoted CAJT stock in or about September 2007. Defendant **Wynn** was the majority owner, President, Secretary, and Treasurer of Wynn Holdings.

8. Wynn Industries, LLC was a Texas limited liability company with its

principal place of business in Dallas, in the Northern District of Texas. Defendant **Wynn** was the sole owner and President of Wynn Industries.

9. Lugano Funds, LLC was a Minnesota Limited Liability Company formed for the purpose of participating in CAJT's unregistered stock offering. Lugano Funds distributed shares in CAJT's August 2007 offering.

10. Co-conspirator Ryan Reynolds, a former stock broker, operated several entities including Lugano Funds. In 2012, in *United States v. Reynolds*, No. 1:12-CR-20301, in the Southern District of Florida, Reynolds pleaded guilty to conspiracy to commit securities fraud based on his involvement in the CAJT conspiracy.

COUNT ONE

Conspiracy to Commit Securities Fraud
(18 U.S.C. § 371 [15 U.S.C. §§ 78j(b) and 78ff])

11. The allegations contained in paragraphs 1 through 10 are realleged and fully incorporated herein.

12. From in or about May 2007 and continuing thereafter until in or about October 2007, in the Dallas Division of the Northern District of Texas and elsewhere, the defendants, **Jason Wynn** and **Martin Cantu**, did knowingly and willfully conspire with each other, and with other persons both known and unknown to the Grand Jury (the co-conspirators) to commit an offense against the United States, specifically Securities Fraud, in violation of 15 U.S.C. §§ 78j(b) and 78ff, and 17 C.F.R. § 240.10b-5, which is to say that the defendants and the co-conspirators agreed that they would willfully and knowingly, and with intent to defraud, by the use of means and instrumentalities of

interstate commerce, the mails, and facilities of national securities exchanges, directly and indirectly, in connection with the purchase and sale of securities: (a) use and employ manipulative and deceptive devices and contrivances; (b) employ devices, schemes, and artifices to defraud; (c) make untrue statements of material fact and omit to state material facts that were necessary for statements that were made not to be misleading, in light of the circumstances under which the statements were made; and (d) engage in acts, practices, and courses of business that operated or would have operated as a fraud or deceit upon a person.

Manner and Means of Conspiracy

13. It was part of the conspiracy and the scheme to defraud that defendants **Wynn, Cantu**, and other co-conspirators executed a campaign of false and misleading publicity about CAJT.

14. Using mailings, faxes, print media, and television, the defendants and co-conspirators unleashed press releases and advertising that made materially false and misleading public statements about the operational capabilities, business prospects, relationships with third-party entities, and initial success of CAJT.

15. The press releases and advertising publicity were intentionally designed to lead public investors to believe that the company's real-time online booking system was complete, when in truth and in fact the company failed to ever develop the system past the concept and initial design stage.

16. The statements that were released intentionally represented to public

investors that CAJT had established business relationships with reputable companies when in truth and in fact those companies had no relationship with CAJT.

17. The publicity led public investors to believe that the company had achieved operational success that in truth and in fact it had not achieved.

18. The publicity campaign resulted in an increase in demand for CAJT shares, and an increase in the share price, based on false and misleading information.

19. At the same time, certain co-conspirators, through brokerage accounts that they controlled, regularly purchased shares of CAJT in order to create the appearance of demand for the shares and prevent the share price from decreasing.

20. As the price of CAJT's stock rose, the defendants and their co-conspirators liquidated their holdings of the stock. As a result, the co-conspirators were able to sell, at prices ranging from \$1 to nearly \$3, shares of CAJT that they had purchased for one penny.

21. One purpose of the conspiracy was that the defendants would and did enrich themselves through the fraudulent manipulation of the CAJT stock.

Overt Acts in Furtherance of the Conspiracy

22. In furtherance of the conspiracy and to accomplish its objects and purpose, the defendants committed and caused to be committed, in the Northern District of Texas and elsewhere, the following overt acts:

a. During the period that began in or about May 2007 and continued until in or about July 2007, CAJT sold 10 million shares of CAJT stock for one penny per

share to each of Lugano Funds and Wynn Holdings LLC, which were controlled by Reynolds and defendant **Wynn**, respectively.

b. On or about August 27, 2007, an account controlled by defendant **Cantu** received a transfer of 300,000 shares at no cost to defendant **Cantu**.

c. On or about August 22, 2007, CAJT's stock started trading publicly.

d. On or about August 23, 2007, defendants **Wynn** and **Cantu** caused a press release to be issued for CAJT which stated that "[o]ur 'real-time' booking system has been completed." This statement was intentionally false and misleading, because, in truth and in fact, the booking system remained in the concept and initial design stage.

e. From on or about August 23, 2007, through on or about August 30, 2007, defendants **Wynn** and **Cantu** and Reynolds caused to be distributed over 3 million full-color, promotional mailers touting CAJT stock with statements such as "Got Money? The sky's the limit with this stock!" and "Turn \$10,000 into \$50,000 in weeks!"

f. On or about August 28, 2007, defendants **Wynn** and **Cantu** caused the following statements, among others, to be issued by facsimile to hundreds of thousands of fax machines:

- "Connectajet is the World's first real-time booking system for private jet charter (expedia.com for private jets). . . ."
- "The real time system will be implemented within 60 days."
- "After only three trading days, the stock has jumped 150%."

These statements were false and misleading because, in truth and in fact, as the

defendants knew, the real-time booking system was not operational, it would not be implemented within 60 days, and the stock price had not increased 150%.

g. On or about September 4, 2007, defendants **Wynn and Cantu** caused a nationally distributed newspaper, USA Today, to publish an advertisement stating that CAJT was “finished with the ‘real-time system’ for the reservation tool of this evolutionary portal” and would “finish-out the remainder of the testing phase of the new booking tools and begin the implementation within a 60 day period.” These statements were false and misleading because, in truth and in fact, as the defendants knew, the real-time system was not finished, the testing phase had not begun, and implementation of the real-time system would not begin within 60 days.

h. The USA Today advertisement also stated “One of the many benefits to using Connectajet.com for your private charter needs is our affiliation with Flight Aware. Flight Aware stands as the world’s most capable and useful flight tracking application. Through this application you can track any aircraft in flight by simply typing in its tail number.” This statement was false and misleading because, in truth and in fact, as the defendants knew, CAJT had no affiliation with FlightAware.

i. On or about September 6, 2007, defendants **Wynn and Cantu** caused a press release to be issued which included the statement that CAJT had “submitted a Letter of Intent (LOI) to engage into a charter partnership with Executive Jet Management, a NetJets and Berkshire Hathaway Company.” This statement was misleading because, in truth and in fact, there was no affiliation between CAJT and

Executive Jet Management or CAJT and NetJets or Berkshire Hathaway.

j. On or about September 20, 2007, defendants **Wynn** and **Cantu** caused a press release to be issued for CAJT which stated that E.S., a person known to the Grand Jury, was a "satisfied" CAJT customer and quoted E.S. as stating "I have chartered many private aircrafts and flying with Connect-A-Jet was one of the most pleasurable experiences of all my travels. . . . I am certain that the next time I am in need of private charter, Connect-a-Jet will connect me to an operator that the provide the same outstanding service." This statement was false and misleading because, in truth and in fact, as the defendants knew, E.S. was not a customer of CAJT and did not have experience chartering private jets, but instead was a friend of defendant **Wynn** and co-conspirator Reynolds, who had simply accompanied defendant **Wynn** and Reynolds on a jet that they had chartered.

k. The defendants, **Wynn** and **Cantu** along with other entities and individuals who were directed by the defendants and co-conspirator Reynolds, intentionally created a false impression of liquidity, trade volume, and market demand for CAJT stock by buying and selling large volumes of CAJT stock in or about August and September 2007. For example, between on or about September 4, 2007 and on or about September 11, 2007, entities controlled by defendant **Wynn** purchased at least 122,600 shares of CAJT stock and sold 95,000 of those shares.

l. From in or about August 2007 through in or about January 2008, entities controlled by defendant **Wynn** sold 4.2 million CAJT shares in the public market,

resulting in profits of \$2.585 million.

m. From in or about August 2007 through in or about October 2007, **Cantu** realized profits of \$548,881 from the sale of 250,000 CAJT shares that he controlled.

n. On or about October 26, 2007, in testimony taken under oath, defendant **Cantu** testified falsely concerning the scheme to promote CAJT stock and his involvement in the sale of CAJT stock that he and his relatives controlled.

All in violation of 18 U.S.C. § 371 [15 U.S.C. §§ 78j(b) and 78ff].

COUNT TWO

Securities Fraud; Aiding and Abetting
(15 U.S.C. §§ 78j(b) and 78ff, 17 C.F.R. § 240.10b-5, 18 U.S.C. § 2)

23. The allegations contained in paragraphs 1 through 22 are realleged and fully incorporated herein.

24. From in or about May 2007 and continuing thereafter until in or about October 2007, in the Dallas Division of the Northern District of Texas and elsewhere, the defendants, **Jason Wynn** and **Martin Cantu**, and others, known and unknown to Grand Jury, and aided and abetted by each other, did knowingly and willfully, and with intent to defraud, by the use of the means and instrumentalities of interstate commerce, the mails, and the facilities of national securities exchanges, directly and indirectly, would and did use and employ manipulative and deceptive devices and contrivances in connection with the purchase and sale of securities issued by CAJT, in violation of Title 17, Code of Federal Regulations, Section 240.10b-5, by (a) employing devices, schemes, and artifices to defraud; (b) making and causing to be made untrue statements of material fact and omitting to state facts that were necessary in order for statements that were made not to be misleading, in light of the circumstances under which they were made; and (c) engaging in acts, practices, and courses of business which operated and would operate as a fraud and deceit upon purchasers of CAJT securities.

25. Specifically, the defendants **Wynn** and **Cantu** made and caused CAJT to make materially false and misleading public statements about CAJT's operational capabilities, business prospects, relationships with third-party entities, and the initial

success of CAJT in connection with the purchase and sale of CAJT stock as discussed in paragraphs 1 through 22.

All in violation of Title 15, United States Code, Section 78j(b) and 78ff; 17 C.F.R. § 240.10b-5; and Title 18 United States Code, Section 2.

A TRUE BILL


FOREPERSON

SARAH R. SALDAÑA
UNITED STATES ATTORNEY


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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

THE UNITED STATES OF AMERICA

VS.

JASON WYNN
MARTIN CANTU

SEALED INDICTMENT

18 USC § 371 [15 U.S.C. §§ 78j(b) and 78FF]
Conspiracy to Commit Securities Fraud

15 U.S.C. §§ 78j(b) and 78FF; 17 C.F.R. § 240.10b-5, 18 U.S.C. § 2
Securities Fraud; Aiding and Abetting
2 Count(s)

A true bill rendered:

FORT WORTH

 FOREPERSON

Filed in open court this 11th day of September A.D. 2013.

Warrants to issue


U.S. MAGISTRATE COURT JUDGE

(Magistrate Court Number: _____)

United States District Court

Northern District of Texas Dallas Division

UNITED STATES OF AMERICA

v.

MARTIN CANTU§ **JUDGMENT IN A CRIMINAL CASE**

§

§

§ Case Number: **3:13-CR-00347-K (02)**§ USM Number: **25260-380**

§

§ **Christopher Monroe Knox**

§ Defendant's Attorney

THE DEFENDANT:

<input type="checkbox"/>	pleaded guilty to count(s)	
<input type="checkbox"/>	pleaded guilty to count(s) before a U.S. Magistrate Judge, which was accepted by the court.	
<input type="checkbox"/>	pleaded nolo contendere to count(s) which was accepted by the court	
<input checked="" type="checkbox"/>	was found guilty on count(s) after a plea of not guilty	To the 2 Count Indictment filed on September 11, 2013

The defendant is adjudicated guilty of these offenses:

<u>Title & Section / Nature of Offense</u>		<u>Offense Ended</u>	<u>Count</u>
18 USC §371[15 USC § 78j(b) and 78ff] Fraud	- Conspiracy To Commit Securities	October 2007	1
15 USC 78j(b) and 78ff[17 CFR § 240.10b-5, 18 USC § 2]	- Securities Fraud and Aiding Abetting	October 2007	2

The defendant is sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- ☐ The defendant has been found not guilty on count(s)
- ☐ Count(s) ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

December 15, 2015

Date of Imposition of Judgment



Signature of Judge

Ed Kinkeade, United States District Judge

Name and Title of Judge

December 16, 2015

Date

EXHIBIT**2**

DEFENDANT: MARTIN CANTU
CASE NUMBER: 3:13-CR-00347-K (02)

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

THIRTY-FIVE (35) Months on each of Counts 1 and 2, with said terms to run concurrently, for a Total Aggregate Term of 35 Months.

☒ The court makes the following recommendations to the Bureau of Prisons:

The Court recommends that the defendant be allowed to serve his sentence at FCI Bastrop, Bastrop, Texas.

☐ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at ☐ a.m. ☐ p.m. on

☐ as notified by the United States Marshal.

☒ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☒ **before 2 p.m. on March 16, 2016.**

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By
DEPUTY UNITED STATES MARSHAL

DEFENDANT: MARTIN CANTU
CASE NUMBER: 3:13-CR-00347-K (02)

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of: **ONE (1) Year. This term consists of 1 year on each of Counts 1 and 2, with said terms to run concurrently for a Total Aggregate Term of 1 year.**

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- ☒ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. *(Check, if applicable.)*
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. *(Check, if applicable.)*
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. *(Check, if applicable.)*
- ☐ The defendant shall comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which he or she resides, works, is a student, or was convicted of a qualifying offense. *(Check, if applicable.)*
- ☐ The defendant shall participate in an approved program for domestic violence. *(Check, if applicable.)*

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

1. the defendant shall not leave the judicial district without the permission of the court or probation officer;
2. the defendant shall report to the probation officer in a manner and frequency directed by the court or probation officer;
3. the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
4. the defendant shall support his or her dependents and meet other family responsibilities;
5. the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
6. the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
7. the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
8. the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
9. the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
10. the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
11. the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
12. the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
13. as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: MARTIN CANTU
CASE NUMBER: 3:13-CR-00347-K (02)

SPECIAL CONDITIONS OF SUPERVISION

Pursuant to the Mandatory Victims Restitution Act of 1996, the defendant is ordered to pay restitution in the amount of \$423,938.66, joint and several with codefendant Jason Wynn (02) payable to the U.S. District Clerk, 1100 Commerce Street, Room 1452, Dallas, Texas 75242. Restitution shall be payable immediately and shall be disbursed to:

**Robert E. Long
Hampton, Virginia
\$131,463.66**

**Chong Hwan Chu
Pleasanton, California
\$39,975.00**

**Charles Remy Tabor
Irving, Texas
\$124,500.00**

**Earline Classon
\$78,000.00**

**Kevin Jordan
\$50,000.00**

If the restitution has not been paid in full within 30 days of the date of this judgment, the defendant shall make payments on such unpaid balance in monthly installments of not less than 10 percent of the defendant's gross monthly income, or at a rate of not less than \$50 per month, whichever is greater, until the balance is paid in full. In addition, at least 50 percent of the receipts received from gifts, tax returns, inheritances, bonuses, lawsuit awards, and any other receipt of money shall be paid toward the unpaid balance within 15 days of receipt. This payment plan shall not affect the ability of the United States to immediately collect payment in full through garnishment, the Treasury Offset Program, the Federal Debt Collection Procedures Act of 1990 or any other means available under federal or state law. Furthermore, it is ordered that interest on the unpaid balance is waived pursuant to 18 U.S.C. § 3612(f)(3).

The defendant shall pay any remaining balance of restitution in the amount of \$423,938.66, as set out in this Judgment.

The defendant shall provide to the probation officer complete access to all business and person financial information.

The defendant shall not incur new credit charges or open additional lines of credit without approval of the probation officer unless the probation officer makes a determination that the defendant has fully satisfied the restitution obligation.

The defendant shall not be employed by, affiliated with, own or control, or otherwise participate, directly or indirectly, in the business of securities, without the probation officer's approval.

DEFENDANT: MARTIN CANTU
CASE NUMBER: 3:13-CR-00347-K (02)

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$200.00	\$.00	\$423,938.66

- ☐ The determination of restitution is deferred until *An Amended Judgment in a Criminal Case (AO245C)* will be entered after such determination.
- ☒ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

Robert E. Long, Chong Hwan Chu and Charles Remy Tabor, shall be paid in full prior to any restitution paid to victims Earline Classon and Kevin Jordan. Further, the Defendant is DIRECTED to pay the Clerk of Court to satisfy this criminal restitution order prior to paying any monies owed on the Judgment regarding the civil S.E.C. case(s). Pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

**Robert E. Long
Hampton, Virginia
\$131,463.66**

**Chong Hwan Chu
Pleasanton, California
\$39,975.00**

**Charles Remy Tabor
Irving, Texas
\$124,500.00**

**Earline Classon
\$78,000.00**

**Kevin Jordan
\$50,000.00**

- ☐ Restitution amount ordered pursuant to plea agreement \$
- ☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- ☒ The court determined that the defendant does not have the ability to pay interest and it is ordered that:
- | | | |
|--|-------------------------------|--|
| <input checked="" type="checkbox"/> the interest requirement is waived for the | <input type="checkbox"/> fine | <input checked="" type="checkbox"/> restitution |
| <input type="checkbox"/> the interest requirement for the | <input type="checkbox"/> fine | <input type="checkbox"/> restitution is modified as follows: |

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: MARTIN CANTU
CASE NUMBER: 3:13-CR-00347-K (02)

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

- A** ☐ Lump sum payments of \$ _____ due immediately, balance due
☐ not later than _____, or
☐ in accordance ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B** ☒ Payment to begin immediately (may be combined with ☒ C, ☐ D, or ☐ F below); or
- C** ☒ **Payment in equal monthly (e.g., weekly, monthly, quarterly) installments of at least \$50.00, over a period of XXXXXXXXXX(e.g., months or years), to commence 30 days (e.g., 30 or 60 days) after the date of this judgment; or**
- D** ☐ Payment in equal (e.g., weekly, monthly, quarterly) installments over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E** ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F** ☒ Special instructions regarding the payment of criminal monetary penalties:
It is ordered that the Defendant shall pay to the United States a special assessment of \$200.00 for Counts 1 and 2 which shall be due immediately. Said special assessment shall be paid to the Clerk, U.S. District Court.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☒ Joint and Several

See above for Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

3:13-CR-347-K (01); Jason Wynn - \$423,938.66

- ☐ Defendant shall receive credit on his restitution obligation for recovery from other defendants who contributed to the same loss that gave rise to defendant's restitution obligation.
- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

AFFIDAVIT


THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

BEFORE ME, the undersigned authority, on this day personally appeared Rebecca (Beth) Stevens, Petitioner's attorney of record, who, being by me duly sworn, deposed as follows:

"My name is Rebecca (Beth) Stevens. I am over the age of 18 years, of sound mind, capable of making this affidavit, and state the following:

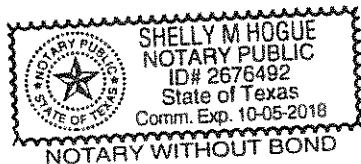
Based upon information and belief, Martin Cantu, Jr., whose Texas Bar Card Number is 03767440, is licensed as an attorney and counselor at law in the State of Texas. Based upon information and belief, Martin Cantu, Jr., named as Respondent in the Petition for Compulsory Discipline filed with the Board of Disciplinary Appeals is one and the same person as the Martin Cantu who is the subject of the Judgment in a Criminal Case entered in Case No. 3:13-CR-00347-K(02), styled *United States of America v. Martin Cantu*, in the United States District Court for the Northern District of Texas, Dallas Division, wherein Respondent was found guilty of Conspiracy to Commit Securities Fraud and Securities Fraud Aiding and Abetting and was committed to the custody of the United States Bureau of Prison for a total term of thirty-five (35) months, ordered to pay a restitution in the amount of \$423,938.66 and ordered upon release from imprisonment to be on supervised release for a term of one (1) year."

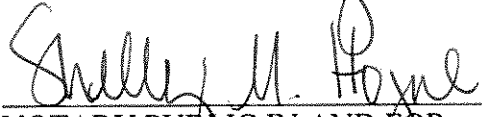
FURTHER Affiant saith not.



Rebecca (Beth) Stevens

SWORN AND SUBSCRIBED before me on the 24 day of May 2016.





NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

EXHIBIT

3