

**STATE OF ILLINOIS  
SECRETARY OF STATE  
SECURITIES DEPARTMENT**

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**IN THE MATTER OF:**

**LPL Financial, LLC (CRD #6413)  
f/k/a LPL Financial Corporation**  
and its managers, officers, affiliates,  
subsidiaries, representatives, successors,  
and assigns.

**File No. 1000096**

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**CONSENT ORDER**

**TO THE RESPONDENT:**

LPL Financial, LLC  
(CRD #6413)  
c/o Stephanie Brown  
One Beacon Street, 22<sup>nd</sup> Floor  
Boston, Massachusetts 02108-3106

LPL Financial, LLC  
(CRD #6413)  
c/o its attorneys  
Charles Risch  
John Monical  
Lawrence, Kamin, Saunders & Uhlenhop LLC  
300 South Wacker Drive, Suite 500  
Chicago, Illinois 60606

WHEREAS, LPL Financial, LLC, f/k/a LPL Financial Corporation, by and through its duly authorized representative, executed a certain Stipulation to Enter Consent Order (“the Stipulation”), which hereby is incorporated by reference herein.

WHEREAS, by means of the Stipulation, LPL has admitted that it was properly served with the Notice of Hearing issued by the Secretary of State, Securities Department, dated October 24, 2011 (the “Notice”).

WHEREAS, by means of the Stipulation, LPL has admitted to the jurisdiction of the Secretary of State, Securities Department, and has consented to the entry of this Consent Order.

WHEREAS, by means of the Stipulation, LPL acknowledges, without admitting or denying the truth thereof, that the following allegations shall be adopted as the Secretary of State's Findings of Fact:

**COUNT 1**  
**FAILURE TO REASONABLY SUPERVISE**

1. Respondent LPL Financial, LLC, f/k/a LPL Financial Corporation ("LPL"), is a securities broker-dealer and federally registered investment adviser located at One Beacon Street, 22<sup>nd</sup> Floor, Boston, Massachusetts 02108-3106.
2. Arthur Lin ("Lin") is an individual with a last known address of 4975 Lichfield Drive, Barrington, Illinois 60010. Lin was registered as an investment adviser representative and securities salesperson of LPL from September 29, 2006 to April 8, 2010.
3. Lin conducted business on behalf of LPL in a branch office located at 900 N. Arlington Heights Road, Itasca, Illinois 60143. Lin was the branch manager for this particular LPL branch office.
4. At the time he was conducting business on behalf of LPL, Lin was also conducting business on behalf of Malarz Equity Investments, LLC ("MEI"). MEI purported to purchase apartment buildings, convert them into condominiums, and offer the converted condominiums for sale to the public. Marcin Malarz ("Malarz") is the President of MEI.
5. According to MEI's Articles of Organization, Lin was a manager of the company. Lin also held himself out as a MEI board member that reviewed the company's financials.
6. Additionally, while serving as an investment adviser representative and securities salesperson for LPL, Lin sold MEI's promissory notes to several Illinois investors, including several of his LPL customers.
7. In the process of offering and selling MEI's promissory notes, Lin made a number of material misrepresentations and omissions of fact to investors.
8. Lin's offer and sale of MEI's promissory notes constituted the offer and sale of securities as those terms are defined in Sections 2.1, 2.5, and 2.5a of the Act.
9. Section 12.F of the Act provides that it shall be a violation of the provisions of this Act for any person to engage in any transaction, practice or course of business in connection with the sale or purchase of securities which works or tends to work a fraud or deceit upon the purchaser or seller thereof.
10. Section 12.G of the Act provides that it shall be a violation of the provisions of this Act for any person to obtain money or property through the sale of securities by means of any untrue statement of a material fact or any omission to state a material fact necessary in

order to make the statements made, in light of the circumstances under which they were made, not misleading.

11. Section 12.H of the Act states that it shall be a violation of the provisions of this Act for any person to sign or circulate any statement, prospectus, or other paper or document required by any provision of this Act or pertaining to any security knowing or having reasonable grounds to know any material representation therein contained to be false or untrue.
12. Section 12.I of the Act provides that it shall be a violation of the provisions of this Act for any person to employ any device, scheme or artifice to defraud in connection with the sale or purchase of any security, directly or indirectly.
13. By virtue of the foregoing, Arthur Lin violated Sections 12.F, 12.G, 12.H, 12.I of the Act.

**AS RESULT OF OMISSIONS IN ITS SUPERVISION OF ARTHUR LIN, LPL MISSED SEVERAL OPPORTUNITIES TO DETECT HIS INVOLVEMENT IN THE SALE OF MEI PROMISSORY NOTES**

14. In this case, LPL had several of opportunities to detect Lin's involvement with MEI and his fraudulent sale of MEI promissory notes.

**LPL Failed to Monitor Lin's Email Correspondence**

15. Lin sometimes used his LPL email address [arthur.lin@lpl.com] to conduct business of MEI.
16. Additionally, Lin sometimes used his LPL email address to correspond with his LPL clients about investments in MEI promissory notes.
17. LPL's email monitoring failed to detect Lin's LPL email correspondence relating to MEI business and promissory notes.
18. An effective review of Lin's LPL email correspondence would have revealed Lin's sale of MEI promissory notes.

**Arthur Lin Failed to Properly Monitor Lin's Outside Business Activity**

19. LPL's Compliance Manual mandates that its advisors must give prior written notice to LPL of any intended outside business activity and await written approval or notification before engaging in the proposed activity.
20. LPL's Compliance Manual further states that submissions of an outside business activity may be done electronically through the Outside Business Activity/DBA Notification Request Service Express form available in the "Compliance" section of the BranchNet Resource Center.

21. Lin notified LPL's Compliance Department of his involvement in MEI by electronically filing such a form through LPL's BranchNet Resource Center in January of 2007.
22. In his January 2007 filing, Lin informed LPL of his desire to become involved with a business named Malarz Equity Investments, LLC. This company was originally described as a real estate rental business where his spouse was "a passive investor in a condo conversion construction company that buys hundreds of apartment units and convert [sic] them into condos for subsequent sale."
23. After receiving this request, LPL's Compliance Department requested more information from Lin about this activity. Specifically, Lin was asked what the expected annual income was for the activity and whether the activity was a private placement investment.
24. In response, Lin confirmed with the LPL Compliance Department that Malarz Equity Investments, LLC was a private placement investment. In addition, Lin informed the LPL Compliance Department that he was, in fact, a part-time Board member of the company who reviews the company's financials.
25. Despite the fact that Arthur Lin informed the LPL Compliance Department that he was acting as a part-time Board member for MEI, a company that was offering private placement investments, LPL never inquired further into Lin's activities, never monitored Lin to detect whether he was selling MEI private placement investments, and failed to update Lin's U-4 form to reflect his involvement as a part time Board member for MEI.

**Lin Informed LPL of His Involvement in MEI During LPL Compliance Audits**

26. Lin also informed LPL of his involvement with MEI during compliance audits that LPL conducted of his branch office.
27. During the time he was registered with LPL, Arthur Lin was audited three times by the LPL Compliance Department. The audits took place on the following dates:
  - a. May 22, 2007
  - b. April 14, 2008
  - c. February 12, 2009
28. As a part of these audits, Lin was required to complete a "Branch Manager & Financial Advisor Questionnaire" that was to be reviewed and used during the compliance audit.
29. For the April 14, 2008 audit, Lin completed the Branch Manager & Financial Advisor Questionnaire form. On that form, Lin once again informed LPL that he was a Board Member of a company called "Malarz Equity Investments."
30. For the February 12, 2009 audit, Lin once again completed the Branch Manager & Financial Advisor Questionnaire form and once again informed LPL of his involvement

Consent Order

-5-

of MEI. Specifically, Lin described MEI as "Personal Real Estate Investments with Family in condominiums – Long Term Payout."

31. Despite the fact that Lin informed the LPL Compliance Department about his involvement with MEI during annual compliance audits, LPL never inquired further into Lin's activities, never monitored Lin to detect whether he was selling MEI private placement investments, and failed to update Lin's U-4 form to reflect his involvement as a part time Board member for MEI.
32. Based on the facts described in Paragraphs 15-30, LPL knew or should have known of Lin's fraudulent conduct.
33. Section 8.E(1)(e)(i) of the Act provides, *inter alia*, that a dealer may be subject to sanctions if the dealer has failed reasonably to supervise the securities activities of any of its salespersons or other employees and the failure has permitted or facilitated a violation of Section 12 of this Act.
34. Section 8.E(1)(e)(iv) of the Act provides, *inter alia*, that a dealer may be subject to sanctions if the dealer has failed to maintain and enforce written procedures to supervise the types of business in which it engages and to supervise the activities of its salespersons that are reasonably designed to achieve compliance with applicable securities laws and regulations.

WHEREAS, by means of the Stipulation, LPL acknowledges, without admitting or denying the truth thereof, that the following shall be adopted as the Secretary of State's Conclusions of Law:

1. Illinois has jurisdiction over this matter pursuant to the Illinois Securities Law of 1953 [815 ILCS 5] (the "Act").
2. The Illinois Securities Department finds that the above conduct subjects LPL to sanctions under Sections 8.E(1)(e)(i) and 8.E(1)(e)(iv), of the Act.
3. The Illinois Securities Department finds the following relief appropriate and in the public interest.

WHEREAS, by means of the Stipulation, LPL has acknowledged and agreed that it shall pay Two Hundred and Fifty Thousand Dollars (\$250,000.00) to the Office of the Secretary of State, Securities Audit and Enforcement Fund within ten (10) days of the entry of this Order.

WHEREAS, LPL has acknowledged that it shall make an offer of restitution to certain investors according to terms submitted to the Illinois Securities Department.


Consent Order

-6-

NOW THEREFORE, IT IS HEREBY ORDERED THAT:

1. LPL Financial, LLC shall pay Two Hundred and Fifty Thousand Dollars (\$250,000.00) to the Office of the Secretary of State, Securities Audit and Enforcement Fund within ten (10) days of the entry of this Order.
2. LPL Financial, LLC shall make an offer of restitution to certain investors according to terms submitted to the Illinois Securities Department.
3. The Notice of Hearing dated October 24, 2011 is dismissed without further proceedings.

Entered: This 24th day of October, 2011.

  
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JESSE WHITE  
Secretary of State  
State of Illinois

NOTICE: Failure to comply with the terms of this Order shall be a violation of Section 12.D of the Act. Any person or entity who fails to comply with the terms of this Order of the Secretary of State, having knowledge of the existence of the Order shall be guilty of a Class 4 Felony.

Attorney for the Secretary of State:  
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Illinois Securities Department  
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