**FINANCIAL INDUSTRY REGULATORY AUTHORITY**
**LETTER OF ACCEPTANCE, WAIVER, AND CONSENT**
**NO. 2019064126802**

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

RE: Clearview Trading Advisors, Inc. (Respondent)
Member Firm
CRD No. 142873

Gregg H. Ettin (Respondent)
Compliance Officer and General Securities Principal
CRD No. 1604260

Pursuant to FINRA Rule 9216, Respondents Clearview Trading Advisors, Inc. and Gregg H. Ettin (collectively, Respondents) submit this Letter of Acceptance, Waiver, and Consent (AWC) for the purpose of proposing a settlement of the alleged rule violations described below. This AWC is submitted on the condition that, if accepted, FINRA will not bring any future actions against Respondents alleging violations based on the same factual findings described in this AWC.

## I.

## ACCEPTANCE AND CONSENT

A. Respondents accept and consent to the following findings by FINRA without admitting or denying them:

### BACKGROUND

Clearview is an introducing broker that has been a FINRA member since August 2007. From August 2018 through March 2019, Clearview had 25 registered representatives and one branch office located in New York, New York. Clearview's primary business lines during the relevant period included commission-based brokerage and trading and execution services, primarily for institutional customers. Currently, the firm employs six registered representatives and primarily engages in sales of private placements.[1]

Ettin first became registered with FINRA in 1986 through his association with a FINRA member firm. From 1986 to the present, Ettin has been registered through six different member firms, including Clearview. Ettin founded Clearview and has served as its sole owner and Chief Executive Officer (CEO) since the firm was established. In August 2007, Ettin became registered as a General Securities Representative and General Securities Principal through Clearview. He was later registered through the firm in several other capacities and became registered through Clearview as a Compliance

[1] For more information about the firm, visit BrokerCheck® at www.finra.org/brokercheck.

Officer in October 2018. During the relevant period, Ettin was the firm's Chief Compliance Officer (CCO) and Anti-Money Laundering Compliance Officer (AMLCO) in addition to being the firm's CEO.[2]

## OVERVIEW

From August 2018 to March 2019, Clearview and Ettin, the firm's AMLCO, failed to establish and implement an anti-money laundering (AML) compliance program reasonably designed to detect and cause the reporting of suspicious activity. Therefore, Clearview and Ettin violated FINRA Rules 3310(a) and 2010.

During the same period, Clearview and Ettin, who was responsible for reviewing and approving customer deposits and sales of restricted securities under the firm's Written Supervisory Procedures (WSPs), failed to establish and maintain a supervisory system, including WSPs, reasonably designed to achieve compliance with Section 5 of the Securities Act of 1933. Therefore, Clearview and Ettin violated FINRA Rules 3110(a), 3110(b), and 2010.

## FACTS AND VIOLATIVE CONDUCT

This matter originated from FINRA's 2019 cycle examination of Clearview.

**Clearview's low-priced securities business grew significantly in August 2018.**

In August 2018, a former Clearview representative introduced a group of institutional customers to Clearview who wished to deposit and sell low-priced equity securities. Clearview opened over 70 institutional delivery-versus-payment/receipt-versus-payment (DVP/RVP) accounts,[3] through which the customers liquidated large volumes of low-priced securities. Ettin was the registered representative for these customers and executed the trades on the over-the-counter market.

During the relevant period, Clearview, through Ettin, executed approximately 7,500 unsolicited transactions consisting of approximately 41 billion shares of low-priced securities for total proceeds of over $94.5 million. Clearview received over $4 million in commissions from this activity, representing almost half of the total revenue Clearview generated during the relevant period.[4]

**Clearview and Ettin failed to develop and implement a reasonably designed AML program.**

FINRA Rule 3310 requires each member to "develop and implement a written [AML] program reasonably designed to achieve and monitor the member's compliance with the

[2] For more information about respondent Ettin, visit BrokerCheck® at www.finra.org/brokercheck.

[3] In a DVP/RVP account, customers buy and sell securities that are not held at the brokerage firm executing the trades. The investor's account is held at another firm that acts as a fiduciary agent for the investor. On settlement date, the executing broker exchanges securities and funds with the client's agent in settlement of the executed trade or trades.

[4] In March 2019, Clearview's clearing arrangement ceased and the firm ended its low-priced securities business.

requirements of the Bank Secrecy Act [(BSA)] (31 U.S.C. § 5311, *et seq.*), and the implementing regulations promulgated thereunder by the Department of the Treasury." FINRA Rule 3310(a) requires that each member's AML program must, among other things, be "reasonably expected to detect and cause the reporting of transactions required under 31 U.S.C. § 5318(g) and the implementing regulations thereunder." One of the implementing regulations, 31 C.F.R. 1023.320, requires every broker-dealer to file with the Financial Crimes Enforcement Network a report of any suspicious transaction relevant to a possible violation of law or regulation. FINRA Rule 2010 requires members, in the conduct of their business, to "observe high standards of commercial honor and just and equitable principles of trade." A violation of another FINRA Rule also constitutes a violation of FINRA Rule 2010.

NASD Notice to Members (NTM) 02-21 provided detailed guidance to the industry regarding the obligation of a broker-dealer to monitor for and report suspicious transactions. The notice advised each broker-dealer that when developing an AML program, it should tailor the program to fit its business, taking into consideration, among other factors, "the types of accounts it maintains, and the types of transactions in which its customers engage." Further, NTM 02-21 explained that each broker-dealer has a duty to perform "additional due diligence" when opening an account and before proceeding with a transaction raising "red flags" suggestive of money laundering or other violative activity. The notice also provided a non-exhaustive list of such red flags, including customers that have "a questionable background," customers who maintain "multiple accounts . . . in the names of . . . corporate entities, for no apparent . . . purpose," and customers who, "in conjunction with other 'red flags,' engage[] in transactions involving . . . penny stocks." In NTM 02-47, the NASD provided additional guidance to firms regarding their AML obligations and the requirement to file suspicious activity reports (SARs) for certain suspicious transactions.

Pursuant to the firm's AML program, Ettin, the firm's AMLCO, was responsible for the firm's AML compliance obligations. Ettin's duties included developing and updating the firm's AML compliance program, monitoring the activities of the firm to reasonably detect and prevent money laundering, and filing suspicious activity reports when warranted.

Despite the firm's significant business expansion toward the liquidation of low-priced securities in August 2018, Clearview and Ettin did not take reasonable steps to establish and implement an AML program tailored to that business. Ettin failed to update the firm's AML procedures or otherwise review its controls to assess whether they were sufficient to detect and report suspicious activities.

For example, although Clearview's AML procedures contained a section specifically related to DVP/RVP Accounts, which provided that "DVP/RVP accounts that use brokers to liquidate large volumes of low-priced securities may be a red flag for AML concerns [and] [s]uch accounts should be the subject of reasonable inquiry to determine the source of the securities and to identify potential money laundering and registration issues," Ettin did not conduct this "reasonable inquiry"; nor did anyone else at Clearview. Clearview and Ettin purportedly relied on a third party, Company A, to conduct the required inquiry

and verify customer information that it obtained; however, nothing in the firm's procedures addressed the services that Company A provided or how Clearview would supervise Company A's services. Company A collected documents and made them available to Clearview but never advised Clearview of the existence of any red flags or whether to consider filing SARs.

Clearview and Ettin also failed to establish and implement a reasonable process to identify red flags specific to issuers of low-priced securities or patterns of suspicious trading within customer accounts. Clearview's AML procedures provided that Ettin, as AMLCO, should monitor for potential money laundering by using exception reports or reviewing sufficient account activity to identify patterns of suspicious activity or red flags on a daily and ongoing basis. However, Clearview did not use any exception reports or automated tools to monitor customer account activity for suspicious transactions. The AML procedures identified examples of red flags, including red flags specific to issuers of low-priced securities; customers with multiple accounts or backgrounds indicating possible criminal, civil, or regulatory violations; and accounts liquidating large volumes of low-priced securities and withdrawing funds from those trades. Importantly, however, the procedures did not explain *how* the firm should monitor for and investigate those red flags.

The firm's review for potentially suspicious transactions was limited to Ettin's manual review of every transaction and reliance on third parties, including Company A and Clearview's clearing firm. However, the firm's consulting agreement with Company A did not provide that Company A would monitor customer account activity, and Clearview's clearing agreement required Clearview as the introducing firm to assume "sole and exclusive responsibility for compliance." Further, despite the fact that the firm's AML procedures required another individual to monitor transactions executed by the firm's AMLCO, no one at Clearview reviewed and oversaw the customer transactions, which Ettin himself executed. The firm and Ettin's failure to implement an AML program reasonably tailored to its business resulted in the firm failing to identify, investigate, and report potentially suspicious transactions.

For example, Clearview liquidated millions of shares in the same low-priced securities for multiple customer accounts at or around the same time without detecting the red flags those transactions raised. In one instance, two accounts beneficially owned by the same individual sold a total of almost 20 million shares of a thinly-traded penny stock, having a principal value of $900,000, on the same date. The firm's AML procedures listed the trading of an illiquid stock suddenly and simultaneously by two or more accounts as a red flag. Nonetheless, Ettin and the firm failed to detect these activities as a red flag and failed to investigate to determine whether to file a SAR.

Clearview's AML procedures also did not define what steps should be undertaken to identify accounts that posed heightened risk or what additional due diligence should be required before opening those accounts and before executing trades that raise red flags in those accounts. For example, in 2018, the firm opened four corporate accounts under the same authorized signatory, Individual 1, whom the SEC had sanctioned in 2007 for, among other things, engaging in a fraudulent scheme that involved setting up fictitious

entities. Although Ettin received documentation showing that Individual 1 was the authorized signatory on all four corporate accounts, neither Ettin nor anyone else at Clearview conducted any investigation to determine why Individual 1 used all four accounts to deposit and liquidate low-priced securities or whether Individual 1 had disciplinary history. In total, Clearview, through Ettin, executed 1,257 transactions ordered by Individual 1 during the relevant period, thereby facilitating the deposit and liquidation of approximately 988 million shares of low-priced securities and yielding over $17 million dollars in proceeds for Individual 1's four corporate accounts.

By failing to develop and implement a reasonably designed AML program, Clearview and Ettin violated FINRA Rules 3310(a) and 2010.

**Clearview and Ettin failed to establish a supervisory system, including WSPs, reasonably designed to achieve compliance with Section 5 of the Securities Act.**

FINRA Rule 3110(a) requires members to "establish and maintain a system to supervise the activities of each associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable FINRA rules." FINRA Rule 3110(b) requires members to "establish, maintain, and enforce written procedures to supervise the types of business in which it engages and the activities of its associated persons that are reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable FINRA rules." A firm's supervisory system, including its WSPs, must be tailored to the nature of the business in which the firm engages. Section 5 of the Securities Act prohibits the offer or sale, or the reoffer and resale, of any security unless there is a registration statement in effect as to that security or there is an exemption or safe-harbor available for that securities transaction.

In January 2009, FINRA issued Regulatory Notice 09-05, which reminded firms that prior to selling any securities in reliance on an exemption, the firm must "take reasonable steps to ensure that the transaction qualifies for the exemption. . . . This includes taking whatever steps necessary to ensure that the sale does not involve an issuer, a person in a control relationship with an issuer, or an underwriter with a view to offer or sell the securities in connection with an unregistered distribution. . . . [F]irms may not rely solely on others, such as clearing firms, transfer agents, or issuers' counsel, to fulfill these obligations." NASD Notice to Members 05-48 also reminded firms that "ultimate responsibility for supervision lies with the member" and provided guidance concerning the outsourcing of certain supervisory activities and functions, stating firms have "a continuing responsibility to oversee, supervise, and monitor" a third-party service provider's performance to ensure that the services are "current and reasonably designed to achieve compliance as required under Rule 3010."

Pursuant to Clearview's WSPs, Ettin "was responsible for establishing and maintaining the supervisory system, policies and procedures for all areas of the firm." This included responsibility for reviewing and approving low-priced securities transactions for compliance with Section 5 obligations.

During the relevant period, the firm executed transactions involving billions of shares in unregistered securities in multiple customer accounts. The firm's WSPs regarding the

"Sale of Control or Restricted Stock" mentioned the use of the safe harbor set forth in Securities Act Rule 144 (17 C.F.R. § 230.144) and required that Ettin "[d]etermine the seller's status (affiliate or non-affiliate) [and] [d]etermine eligibility for selling the amount and timing of sale" but no further guidance was provided as to how to conduct a reasonable inquiry to determine whether a transaction complied with the registration requirements of Section 5. For example, the firm's procedures did not specify what paperwork needed to be collected and reviewed in connection with the deposit and resale of unregistered securities and did not provide any guidance about how to assess the eligibility for sale of those securities.

Instead, Clearview and Ettin primarily relied on Company A to conduct reviews of the securities being liquidated through Clearview to determine whether they were registered or otherwise freely tradeable. This delegation was not formalized in the firm's procedures or described in the agreement between the firm and Company A. While most customers supplied Company A with various documents to support their low-priced securities deposits, Ettin did not reasonably review those documents and did not monitor or ensure that Company A was carrying out this obligation.

Further, Ettin, failed to conduct a reasonable inquiry prior to executing trades in low-priced securities in order to determine whether those securities were registered or subject to an exemption or safe-harbor from registration or to assess whether shares of securities liquidated through Clearview were freely tradeable.[5] For example, Company A did not provide Ettin with any documentation in connection with the unregistered distribution of more than 4.3 billion shares of a low-priced, thinly-traded security, from two separate accounts during the relevant period. Neither Ettin nor anyone from Clearview conducted any inquiry in connection with these transactions to determine whether the securities were subject to an exemption or safe-harbor from registration.

Therefore, Clearview and Ettin violated FINRA Rules 3110(a), 3110(b), and 2010.

B. Respondents also consent to the imposition of the following sanctions:

Clearview:

- a censure and
- a $100,000 fine.

Ettin:

- a nine-month suspension from associating with any FINRA member in all principal capacities;

[5] The former Clearview representative responsible for introducing the low-priced securities business to the firm entered into a separate AWC with FINRA, which included findings that he signed and distributed misleading attestation letters to transfer agents to give them comfort that Clearview customers' sales of low-priced securities were eligible for resale in the secondary market, in violation of FINRA Rule 2010.

- a $25,000 fine; and
- a requirement to requalify as a general securities principal by passing the requisite examination(s) prior to acting in that capacity with any FINRA member.

Respondents agree to pay the monetary sanctions upon notice that this AWC has been accepted and that such payments are due and payable. Clearview and Ettin have each submitted an Election of Payment form showing the method by which they propose to pay the fine imposed.

Respondents specifically and voluntarily waive any right to claim an inability to pay, now or at any time after the execution of this AWC, the monetary sanctions imposed in this matter.

Respondent Ettin understands that if he is suspended from associating with any FINRA member in a principal capacity, he becomes subject to a statutory disqualification as that term is defined in Article III, Section 4 of FINRA's By-Laws, incorporating Section 3(a)(39) of the Securities Exchange Act of 1934. Accordingly, he may not be associated with any FINRA member in a principal capacity, during the period of the bar or suspension. *See* FINRA Rules 8310 and 8311. Furthermore, because Ettin is subject to a statutory disqualification during the suspension, if he remains associated with a member firm in a non-suspended capacity, an application to continue that association may be required.

The sanctions imposed in this AWC shall be effective on a date set by FINRA.

## II.

## WAIVER OF PROCEDURAL RIGHTS

Respondents specifically and voluntarily waive the following rights granted under FINRA's Code of Procedure:

A. To have a complaint issued specifying the allegations against them;

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

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

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

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

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

## III.

## OTHER MATTERS

Respondents understand that:

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

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

C. If accepted:

1. this AWC will become part of the Respondents' permanent disciplinary record and may be considered in any future action brought by FINRA or any other regulator against Respondents;

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

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

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

party. Nothing in this provision affects Respondents' testimonial obligations in any litigation or other legal proceedings.

D. Respondents may attach a corrective action statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Respondents understand that they may not deny the charges or make any statement that is inconsistent with the AWC in this statement. This statement does not constitute factual or legal findings by FINRA, nor does it reflect the views of FINRA.

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

9/16/2022
Date

Clearview Trading Advisors, Inc.
Respondent

Print Name: Gregg Ettin

Title: CEO

Respondent Ettin certifies that he has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; Respondent Ettin has agreed to the AWC's provisions voluntarily; and no offer, threat, inducement, or promise of any kind, other than the terms set forth in this AWC and the prospect of avoiding the issuance of a complaint, has been made to induce him to submit this AWC.

9/16/2022
Date

Gregg Ettin
Respondent

Reviewed by:

Gabriel Fischbarg
Gabriel Fischbarg, Esq.
Counsel for Respondents
Clearview Trading Advisors, Inc. and
Gregg Ettin
230 Park Avenue, Suite 908
New York, NY 10169

Accepted by FINRA:

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

11/11/2022
Date

Adam Balin

Adam H. Balin
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