

**COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE SECRETARY OF THE COMMONWEALTH  
SECURITIES DIVISION  
ONE ASHBURTON PLACE, ROOM 1701  
BOSTON, MASSACHUSETTS 02108**

IN THE MATTER OF:	)	
	)	
TMTE INC., a/k/a METALS.COM,	)	
CHASE METALS, LLC, CHASE METALS, INC.,	)	Docket No. E-2019-0080
TEM INC., AND ACCESS UNLIMITED LLC,	)	
	)	
RESPONDENT.	)	
	)	

**ADMINISTRATIVE COMPLAINT**

**I. PRELIMINARY STATEMENT**

The Enforcement Section of the Massachusetts Securities Division of the Office of the Secretary of the Commonwealth (the "Enforcement Section" and the "Division," respectively) files this Administrative Complaint (the "Complaint") to commence an adjudicatory proceeding against TMTE Inc., also known by the business names Metals.com, Chase Metals, LLC, Chase Metals, Inc., TEM Inc., and Access Unlimited LLC (together "Respondent"), for violations of MASS. GEN. LAWS ch. 110A, the Massachusetts Uniform Securities Act (the "Act"), and 950 MASS. CODE REGS. 10.00-14.413 (the "Regulations"). The Enforcement Section alleges that Respondent engaged in fraud and unregistered advisory activity, and made a materially false or misleading filing in violation of the Act and Regulations.

The Enforcement Section seeks an order: 1) finding as fact the allegations set forth below; 2) finding that all the sanctions and remedies detailed herein are in the public interest and necessary for the protection of Massachusetts investors; 3) requiring Respondent to

permanently cease and desist from further conduct in violation of Sections 102(1), 102(2), 201(c), and 404 of the Act and Regulations in the Commonwealth; 4) censuring Respondent; 5) requiring Respondent to provide restitution to fairly compensate investors for those losses attributable to the alleged wrongdoing; 6) requiring Respondent to provide a verified accounting of all proceeds which were received as a result of the alleged wrongdoing; 7) requiring Respondent to disgorge all profits and other direct or indirect remuneration received from the alleged wrongdoing; 8) permanently barring Respondent from registering in Massachusetts or conducting business in Massachusetts as an investment adviser required to be registered; an investment adviser exempt from registration; a federal covered adviser notice-filed in Massachusetts; an entity relying on an exclusion from the definition of investment adviser; a broker-dealer; or an issuer of securities; 9) permanently barring Respondent from advising Massachusetts residents to sell securities in order to purchase precious metals; 10) imposing an administrative fine on Respondent in such amount and upon such terms and conditions as the Director or Presiding Officer may determine; and 11) taking any such further action which may be necessary or appropriate in the public interest for the protection of Massachusetts investors.

## II. SUMMARY

The Enforcement Section brings this action against TMTE Inc. ("TMTE") for violations of the Massachusetts Uniform Securities Act and Regulations in connection with the purchase of precious metals by Massachusetts investors. TMTE is a precious metals retailer of gold and silver products headquartered in Cheyenne, Wyoming. Between January 1, 2008 and July 2, 2019, TMTE convinced at least six Massachusetts residents to liquidate securities held in retirement accounts in order to purchase precious metals. In

doing so, TMTE collected a markup fee, also referred to as a spread, ranging from 53.62% to 63.27%.

Most, if not all, of the Massachusetts residents had no prior experience investing in precious metals. Consequently, the Massachusetts residents were unaware of the difference between bullion and semi-numismatic and numismatic coins. According to TMTE's Shipping Transaction Agreement, the markup fee for bullion ranges from 1% to 5% percent while the markup fee for semi-numismatic and numismatic coins range from 19% to 33%, with an average markup fee of 29%. Massachusetts investors paid a markup fee that was between 24.62% and 34.27% higher than TMTE's own stated average of 29%.

TMTE's Shipping Transaction Agreement states that customers should not invest more than 20% of available investment funds in precious metals. However, in most cases, TMTE fully liquidated the Massachusetts investor's available investment funds, including retirement accounts, to facilitate the purchase of precious metals. At no time did TMTE explain to Massachusetts residents that they should not invest their entire portfolios in precious metals. Instead, TMTE directed Massachusetts investors to fully liquidate their retirement accounts and invest the proceeds in precious metals, the resulting market value of which was substantially lower than the securities they held previously. As a result of TMTE's recommendations, Massachusetts investors experienced a decline in value of their investments in the amount of \$1,771,065.86. TMTE and its representatives received substantial remuneration in connection with these transactions.

Investors One and Two are a married couple and residents of Massachusetts. With no prior experience investing in precious metals, they began inquiring about investing in precious metals in late 2016. They expressed reservations about investing in precious

metals to an employee of TMTE and made a verbal agreement with TMTE to begin by opening a precious metals individual retirement account (“IRA”) for the minimum account size required by TMTE. In less than two months, TMTE facilitated two transactions that robbed Investors One and Two of their retirement savings. Instead of only transferring the minimum account size as verbally agreed upon, TMTE transferred \$2,797,346 from Investors One and Two’s retirement accounts to newly created precious metal IRAs. TMTE then used those funds to purchase precious metals. Investors One and Two suffered an immediate decline in value of their investments in the amount \$1,511,340.45.

Upon discovering TMTE’s scheme to deprive Massachusetts residents of their hard-earned retirement funds, the Enforcement Section sent a subpoena to TMTE for information regarding Massachusetts residents that invested in precious metals. In response, TMTE provided information that was, at the time, false and misleading. More than three weeks after receiving TMTE’s response, the Enforcement Section discovered that TMTE failed to identify certain Massachusetts investors that purchased precious metals through TMTE. The Enforcement Section takes this action to prevent further harm to Massachusetts investors by TMTE’s deceptive scheme.

### **III. JURISDICTION AND AUTHORITY**

1. As provided for by the Act, the Division has jurisdiction over matters relating to securities pursuant to chapter 110A of Massachusetts General Laws.
2. The Enforcement Section brings this action pursuant to the authority conferred upon the Division by Sections 407A and 414 of the Act, wherein the Division has the authority to conduct an adjudicatory proceeding to enforce the provisions of the Act and the Regulations.

3. This proceeding is brought in accordance with Sections 102(1), 102(2), 201(c), 404, 407A, and 414 of the Act.

4. The Enforcement Section reserves the right to amend this Complaint and bring additional administrative complaints to reflect information developed during the current and ongoing investigation.

#### **IV. RELEVANT TIME PERIOD**

5. Except as otherwise expressly stated, the conduct described herein occurred during the approximate time period of January 1, 2008 to July 2, 2019.

#### **V. RESPONDENT**

6. TMTE Inc., also known by the business names of Metals.com, Chase Metals, LLC, Chase Metals, Inc., TEM Inc., and Access Unlimited LLC (“TMTE” or “Respondent” or “CM”), is a corporation organized on April 30, 2008 in the state of Wyoming. TMTE is not registered in any capacity in the securities industry in Massachusetts and has made no filings with the Corporations Division of the Office of the Secretary of the Commonwealth.

#### **VI. RELATED PERSONS**

7. David Bleeden (“Bleeden”) is or was an individual employed by TMTE with a last known address in California.

8. Jonathan Sachs (“Sachs”) is or was an individual employed by TMTE with a last known address in California.

#### **VII. STATEMENT OF FACTS**

##### **A. Background**

9. TMTE Inc. is a corporation organized under the laws of Wyoming with its headquarters located at 1712 Pioneer Avenue, Suite 2145, Cheyenne, Wyoming.

10. TMTE Inc. operates primarily out of its office located at 433 N. Camden Drive, Suite 970, Beverly Hills, California.

11. TMTE is in the business of selling precious metals. TMTE sells precious metals to individuals across the country, including Massachusetts, both over the telephone and through its website, [www.metals.com](http://www.metals.com).

12. The primary method TMTE utilizes to sell precious metals to Massachusetts residents is to convince individuals the stock market is unstable, to open a self-directed individual retirement account ("IRA") with a precious metals custodian unaffiliated with TMTE, and to transfer part or all of their retirement investments, e.g., 401(k) investments, into a self-directed precious metals IRA.

13. TMTE is not registered as an investment adviser in Massachusetts.

**B. TMTE Inc. Deceived and Defrauded Massachusetts Residents that Purchased Precious Metals.**

14. TMTE has sold precious metals to a minimum of six Massachusetts residents.

1) Massachusetts Investors One and Two

15. Investors One and Two are a married couple from Orleans, Massachusetts. Investor One is a 64 year old physician and Investor Two is a 58 year old nurse practitioner.

16. Investors One and Two first became aware of TMTE in late 2016 through TMTE's website.

17. Subsequently, Investors One and Two began telephone discussions and e-mail correspondence regarding the possibility of purchasing precious metals with David J. Breeden and Jonathan Sachs, employees of TMTE.

18. Breeden acted as the sales person and Sachs acted as the expert regarding precious metals.

19. During telephone conversations at the end of 2016, Investor One expressed reservations to Breeden that Investors One and Two had with investing in precious metals.

20. According to Investors One and Two, TMTE made a verbal agreement with Investors One and Two that accounts would be opened, one for Investor One and one for Investor Two, for TMTE's minimum account size.

21. In December 2016, Investors One and Two agreed, based on Breeden's recommendation, to open a self-directed IRA with Kingdom Trust, a precious metals custodian.

22. Prior to advising Investors One and Two to open the self-directed IRA, Breeden failed to adequately inform Investors One and Two of the difference between bullion and semi-numismatic and numismatic coins. Semi-numismatic and numismatic coins are frequently referred to as collectable or proof coins. Semi-numismatic and numismatic coins are much more costly to purchase than bullion.

23. Although Kingdom Trust is a separate, unaffiliated, company, TMTE provided Investors One and Two with all forms regarding opening the self-directed IRA with Kingdom Trust and transferring their investments from Fidelity Brokerage Services, LLC ("Fidelity").

24. Breeden told Investors One and Two that if they signed the Kingdom Trust Account Adoption Agreement ("KTAAA") and the Kingdom Trust Account Transfer ("KTAT") forms, TMTE would "take care" of everything else. According to Investors One and Two, they signed blank KTAAA and KTAT forms on December 30, 2016.

25. In filling out the KTAAA forms for Investors One and Two, Breeden claimed that TMTE was a securities broker-dealer. However, TMTE has never been registered in the securities industry.
26. Prior to Investor One signing a Shipping and Transaction Agreement (“STA”) with TMTE, TMTE provided Kingdom Trust with Investor One’s KTAAA and KTAT forms.
27. On January 5, 2017, Kingdom Trust sent Investor One’s KTAT form via fax to Fidelity requesting a transfer of \$1,965,875 of Investor One’s assets to the newly established Kingdom Trust IRA.
28. On January 10, 2017, Fidelity notified Kingdom Trust that the KTAT form was filled out incorrectly and the request could not be completed.
29. Kingdom Trust then whited out the portion of the KTAT form that TMTE incorrectly completed and hand wrote the correct information.
30. TMTE then re-submitted the same KTAT form to Fidelity on January 11, 2017.
31. Investor One executed an STA with TMTE on January 16, 2017, unaware that all of the assets in Investor One’s Fidelity account were in the process of being transferred to the newly established Kingdom Trust IRA.
32. TMTE generated a purchase invoice on January 16, 2017 that indicates the assets transferred from Investor One’s Fidelity account purchased 2,000 one ounce silver Canadian Maple Leaf coins and 34,916 one and a half ounce silver Canadian Polar Bear and Cub coins. TMTE did not sent Investor One a copy of the invoice at the time of the purchase.
33. The total cost to purchase the coins was \$1,992,316.

34. The total amount of silver purchased with Investor One's assets on January 16, 2017, was 54,374 ounces.
35. The market price, also known as the spot price, of silver on January 16, 2017, was \$16.785 per ounce.
36. TMTE used \$1,992,316 of Investor One's retirement savings to purchase silver. The resulting market value of the silver was \$912,667.59.
37. As a result of TMTE's recommendations, Investor One experienced an immediate decline in the value of their investments in the amount of \$1,079,648, or 54.19% of \$1,992,316.
38. TMTE collected a markup fee, also referred to as a spread, of \$1,079,648, which represented 54.19% of the purchase price of the silver.
39. Kingdom Trust sent Investor Two's KTAT form to Fidelity in March 2017.
40. At this time, Investors One and Two were unaware of the significant losses suffered by Investor One.
41. TMTE generated a purchase invoice on March 9, 2017 that indicates the assets transferred from Investor Two's Fidelity account purchased 1,000 one ounce silver Canadian Maple Leaf coins and 14,045 one and a half ounce silver Canadian Polar Bear and Cub coins.
42. The total cost to purchase the coins was \$805,030.
43. The total amount of silver purchased with Investor Two's assets on March 9, 2017 was 22,067.50 ounces.
44. The market price of silver on March 9, 2017 was \$16.918 per ounce.

45. TMTE used \$805,030 of Investor Two's retirement savings to purchase silver. The resulting market value of the silver was \$373,337.97.

46. As a result of TMTE's recommendations, Investor Two experienced an immediate decline in the value of their investments in the amount of \$431,692.04, or 53.62% of \$805,030.

47. TMTE collected a markup fee of \$431,692.04, which represented 53.62% of the purchase price of the silver.

48. TMTE used \$2,797,346 of Investor One and Two's retirement savings to purchase silver, which represented all of Investors One and Two's retirement savings. The resulting market value of the silver was \$1,286,005.56.

49. The combined total immediate decline experienced by Investors One and Two in their investments was \$1,511,340.45, or 54.03% of \$2,797,346.

50. The total spread received by TMTE from Investors One and Two was \$1,511,340.45, which represented 54.03% of the purchase price of the silver.

51. The STAs signed by Investor One and Two state:

At the time this Transaction Agreement was transmitted for Customer's signature, (i) CM's Spread on bullion (i.e., coins and bars that generally move in tandem with the spot price for the relevant commodity) is generally between one percent and five percent (1 to 5%), and (ii) CM's Spread on semi-Numismatic and Numismatic coins and bars is generally between seventeen percent and thirty-three percent (17 to 33%). **Spreads for semi-Numismatic and Numismatic coins and bars are often in the range of approximately twenty-nine percent (29%).** (emphasis added).

52. TMTE received a total spread from Investors One and Two that was 25.03% higher than the stated approximate range.

53. Approximately three months after TMTE effected the purchase of silver for Investor One and approximately one month after TMTE effected the purchase of silver for

Investor Two, Investors One and Two discovered that substantially all of the assets they previously held at Fidelity were transferred to Kingdom Trust.

54. Investors One and Two immediately contacted Breeden to express their displeasure and concern. Breeden informed Investors One and Two that if they reversed the transactions they would incur high fees.

55. Breeden also used fear tactics in order to convince Investors One and Two that the stock market was volatile and their savings were safer in precious metals.

56. Investors One and Two continuously contacted TMTE to express displeasure and concern over the market value of silver in their Kingdom Trust IRAs. TMTE, through Breeden and Sachs, continuously informed Investors One and Two that the value of the silver listed on the account statements did not reflect the actual value of the silver.

57. On March 27, 2018, Investor Two sent an e-mail to Sachs asking, "Can you show us how we 'made' money over the past year?"

58. On May 9, 2018, Sachs replied to Investors One and Two, stating:

[Investor One's] IRA  
Original Purchase Price 1/16/17.....\$1,955,296  
Current Value as of 5/9/18.....\$2,096,344

[Investor Two]

Original Purchase Price 1/16/17.....\$805,030  
Current Value as of 5/9/18.....\$846,805

59. Sachs understated Investor One's initial purchase price and did not provide a basis for his calculation of the value of the IRAs. Sachs stated a value that was much higher than the value stated on Investor One and Investor Two's account statements.

60. On May 9, 2018, the market value of silver was \$16.445 per ounce. Therefore, the actual market value of Investor One's IRA account was \$894,180.43 and the market value of Investor Two's IRA was \$362,900.04.

2) Massachusetts Investor Three

61. Investor Three is 60 years old and resides in Carver, Massachusetts.

62. Investor Three executed an STA with TMTE on March 23, 2018.

63. TMTE generated a purchase invoice for Investor Three on March 30, 2018 that indicates TMTE purchased 200 one ounce silver Canadian Maple Leaf coins, ten 10 ounce silver bars, 2,333 half ounce silver 2018 Polar Bear coins, and ten 5 ounce silver American the Beautiful coins.

64. The total cost to purchase the coins was \$67,441.96.

65. The total amount of silver purchased with Investor Three's assets on March 30, 2018 was 1,516.50 ounces.

66. The market price of silver on March 30, 2018 was \$16.333 per ounce.

67. TMTE used \$67,441.96 of Investor Three's retirement savings to purchase silver.

The resulting market value of the silver was \$24,768.99.

68. Investor Three experienced an immediate decline in the value of their investments in the amount of \$42,672.97, or 63.27% of \$67,441.96.

69. TMTE received a markup fee of \$42,672.97, which represented 63.27% of the purchase price of the silver.

70. Investor Three's STA states:

At the time this Transaction Agreement was transmitted for Customer's signature, (i) CM's Spread on bullion (i.e., coins and bars that generally move in tandem with the spot price for the relevant commodity) is generally between one percent and five percent (1 to 5%), and (ii) CM's Spread on

semi-Numismatic and Numismatic coins and bars is generally between seventeen percent and thirty-three percent (17 to 33%). **Spreads for semi-Numismatic and Numismatic coins and bars are often in the range of approximately twenty-nine percent (29%).** (emphasis added).

71. TMTE received a spread from Investor Three that was 34.27% higher than the stated approximate range.

3) Massachusetts Investor Four

72. Investor Four is 60 years old and resides in Forestdale, Massachusetts.

73. Investor Four discovered TMTE by searching the internet.

74. Investor Four first contacted TMTE via telephone in May 2018 and was specifically interested in using his retirement funds to purchase silver Royal Canadian Maple Leaf coins.

75. After Investor Four expressed that interest to TMTE, TMTE advised Investor Four to diversify the investment with other precious metals.

76. However, according to Investor Four, Investor Four told TMTE the only coins desired for investment purposes were silver Royal Canadian Maple Leaf coins.

77. Investor Four executed an STA with TMTE on May 22, 2018.

78. TMTE generated a purchase invoice for Investor Four on May 22, 2018 that indicates TMTE purchased 251 one ounce silver Royal Canadian Mint Maple Leaf coins and 1,060 Royal Canadian Mint Polar Bear coins.

79. The total cost to purchase the coins was \$31,128.98.

80. The total amount of silver purchased with Investor Four's assets on May 22, 2018 was 782 ounces.

81. The market value of silver on May 22, 2018 was \$16.50 per ounce.

82. TMTE used \$31,128.98 of Investor Four's retirement savings to purchase silver. The resulting market value of the silver purchased was \$12,903.

83. The total market value of silver purchased with Investor Four's \$31,128.98 in retirement savings was \$12,903.

84. As a result of TMTE's recommendations, Investor Four experienced an immediate decline in the value of their investments in the amount of \$18,225.98, or 58.55% of \$31,128.98.

85. TMTE collected a markup fee of \$18,225.98, which represented 58.55% of the purchase price of the silver.

86. The retirement funds that TMTE transferred from Investor Four's IRA and used by TMTE to purchase precious metals represented all of Investor Four's retirement savings.

87. Investor Four's STA states:

At the time this Transaction Agreement was transmitted for Customer's signature, (i) CM's Spread on bullion (i.e., coins and bars that generally move in tandem with the spot price for the relevant commodity) is generally between one percent and five percent (1 to 5%), and (ii) CM's Spread on semi-Numismatic and Numismatic coins and bars is generally between seventeen percent and thirty-three percent (17 to 33%). **Spreads for semi-Numismatic and Numismatic coins and bars are often in the range of approximately twenty-nine percent (29%).** (emphasis added).

88. TMTE received a spread from Investor Four that was 29.55% higher than the stated approximate range.

89. Upon discovering that TMTE had not followed through with Investor Four's instruction to purchase only silver Royal Canadian Maple Leaf coins, Investor Four contacted TMTE and filed a complaint.

90. In an e-mail sent by a TMTE Senior Account Executive, TMTE stated, "You submitted a complaint, which I called to address and help fix & we are in the process of doing so." However, TMTE never resolved Investor Four's complaint.

4) Massachusetts Investor Five

91. Investor Five is 67 years old and resides in Carver, Massachusetts.

92. Investor Five executed an STA with TMTE on June 12, 2018.

93. TMTE generated a purchase invoice for Investor Five on June 13, 2018 that indicates TMTE purchased 275 one and a half ounce silver Royal Canadian Mint Polar Bear coins and 11 silver one ounce Buffalo Round coins.

94. The total cost to purchase the coins was \$6,762.69.

95. The total amount of silver purchased with Investor Five's \$6,762.69 on June 13, 2018 was 148.5 ounces.

96. The market price of silver on June 13, 2018 was \$16.998 per ounce.

97. TMTE used \$6,762.69 of Investor Five's retirement savings to purchase the silver. The resulting market value of the silver purchased was \$2,524.20.

98. Investor Five experienced an immediate decline in the value of their investments in the amount of \$4,238.49, or 62.67% of \$6,762.69.

99. TMTE collected a markup fee of \$4,238.49, which represented 62.67% of the purchase price of the silver.

100. Investor Five's STA:

At the time this Transaction Agreement was transmitted for Customer's signature, (i) CM's Spread on bullion (i.e., coins and bars that generally move in tandem with the spot price for the relevant commodity) is generally between one percent and five percent (1 to 5%), and (ii) CM's Spread on semi-Numismatic and Numismatic coins and bars is generally between seventeen percent and thirty-three percent (17 to 33%). **Spreads for semi-**

**Numismatic and Numismatic coins and bars are often in the range of approximately twenty-nine percent (29%).** (emphasis added).

101. TMTE received a spread from Investor Five that was 33.67% higher than the stated approximate range.

5) Massachusetts Investor Six

102. Investor Six is 65 years old and resides in Dartmouth, Massachusetts.

103. Investor Six executed an STA with TMTE on March 18, 2019.

104. TMTE generated a purchase invoice for Investor Six on March 21, 2019 that indicates TMTE purchased 7,059 silver one and a half ounce Royal Canadian Mint Polar Bear coins, 296 1/10 ounce silver Royal Canadian Mint Polar Bear coins, and 120 quarter ounce gold British Standard coins.

105. The total cost to purchase the coins was \$327,099.99.

106. The total amount of silver purchased with Investor Six's assets on March 21, 2019 was 3,529.5 ounces.

107. The market price of silver on March 21, 2019 was \$15.437 per ounce.

108. The total amount of gold purchased with Investor Six's \$327,099.99 on March 21, 2019 was 59.6 ounces.

109. The market price of gold on March 21, 2019 was \$1,309.18 per ounce.

110. TMTE used \$327,099.99 of Investor Six's retirement savings to purchase silver and gold. The resulting market value of the silver was \$54,484.89. The resulting market value of the gold was \$78,027.13. The combined market value of the silver and gold purchased with Investor Six's retirement savings was \$132,512.02.

111. As a result of TMTE's recommendation, Investor Six experienced an immediate decline in the value of their investments in the amount of \$194,587.97, or 59.49% of \$327,099.99.

112. TMTE collected a markup fee of \$194,587.97, which represented 59.49% of the purchase prices of the silver and gold.

113. Investor Six's STA states:

At the time this Transaction Agreement was transmitted for Customer's signature, (i) CM's Spread on bullion (i.e., coins and bars that generally move in tandem with the spot price for the relevant commodity) is generally between one percent and five percent (1 to 5%), and (ii) CM's Spread on semi-Numismatic and Numismatic coins and bars is generally between seventeen percent and thirty-three percent (17 to 33%). **Spreads for semi-Numismatic and Numismatic coins and bars are often in the range of approximately twenty-nine percent (29%).** (emphasis added).

114. TMTE received a spread from Investor Six that was 30.49% higher than the stated approximate range.

**C. TMTE Inc. Received Remuneration for Advising Massachusetts Residents to Sell Securities to Fund the Purchase of Precious Metals.**

115. Investors One and Two contacted TMTE to gain information about investing in precious metals.

116. At the time, Investors One and Two held investment accounts at Fidelity.

117. Prior to contacting TMTE, Investors One and Two had no experience investing in precious metals.

118. During conversations with TMTE, Investors One and Two expressed trepidation about investing in precious metals and communicated these reservations to TMTE, specifically Breedon.

119. Based on their hesitations, Investors One and Two verbally agreed to IRAs to hold precious metals for TMTE's minimum account size.

120. According to Investors One and Two, TMTE informed them that the minimum account size was \$500.

121. Even though Investors One and Two lacked any experience investing in precious metals, TMTE only discussed the possibility of purchasing semi-numismatic and numismatic coins, also known as collectable coins or proof coins.

122. At no point did TMTE discuss with or explain to Investors One and Two the opportunity to purchase bullion coins with a much lower markup fee.

123. TMTE exercised discretion in facilitating the sale and transfer of all of Investor One's assets from Fidelity to the Kingdom Trust IRA, as opposed to the minimum amount necessary to open an IRA to hold precious metals.

124. TMTE exercised discretion in facilitating the sale and transfer of all of Investor Two's assets from Fidelity to the Kingdom Trust IRA, as opposed to the minimum amount necessary to open an IRA to hold precious metals.

125. TMTE received remuneration in the amount of \$1,511,340.45 as a result of facilitating the sale of the securities Investors One and Two held in their IRAs.

126. After discovering the unauthorized transfer of assets out of their Fidelity accounts, TMTE used scare tactics to convince Investors One and Two to keep their assets in the newly established precious metal IRAs.

127. TMTE informed Investors One and Two that the stock market was volatile and their assets were safer in precious metals.

128. TMTE informed Investors One and Two that since TMTE had already transferred the retirement savings from Investor One and Two's Fidelity accounts, Investors One and Two would incur additional costs and fees if TMTE reversed the transactions.

129. Investors One and Two asked TMTE about reviewing their account statements, at which time TMTE referred them to the custodian holding the precious metals, Kingdom Trust.

130. Investors One and Two contacted Kingdom Trust, which provided them with information to create an internet login to view their precious metals IRAs. After logging in online to view their accounts, Investors One and Two realized that the value of their newly established IRAs was less than half of what had been transferred from their Fidelity IRAs.

131. Investors One and Two contacted TMTE to complain and TMTE informed them that the market value of their accounts was not the true value of their investments. TMTE informed Investors One and Two that their coins were rare coins and would sell for more on the open market.

132. TMTE made similar statements during all subsequent correspondence over a period of more than two years.

133. In an e-mail dated March 27, 2018 to Sachs, Investor Two asked, "Can you also show us how we 'made' money over the past year? [Investor One] thought we have only lost money."

134. On May 9, 2018, Sachs sent the following response:

[Investor One's] IRA  
Original Purchase Price 1/16/17....\$1,955,296  
Current Value as of 5/9/18.....\$2,096,344

[Investor Two]

Original Purchase Price 1/16/17.....\$805,030

Current Value as of 5/9/18.....\$846,805

135. Sachs provided no basis for the numbers he provided to Investors One and Two.

136. TMTE continued to advise Investors One and Two regarding precious metals. On March 27, 2018, Sachs sent Investors One and Two an e-mail containing information regarding “the upcoming launch of China’s Gold convertible currency for all Oil transactions (contracts) with all of their trading partners.”

137. Based on the misrepresentations TMTE continued to make regarding the value of Investor One and Two’s investments, the declining price of silver, and TMTE’s continued recommendations, Investors One and Two used a portion of their investments in silver to purchase gold.

138. Based on the misrepresentations and advice of TMTE, Investor Two exchanged investments in silver for investments in gold on January 28, 2019.

139. Based on the misrepresentations and advice of TMTE, Investor One also exchanged investments in silver for investments in gold on February 15, 2019.

140. TMTE continuously deceived Investors One and Two as to the value of their investment.

141. In April 2019, after more than two years of misrepresentations, Investors One and Two became aware of TMTE’s scheme to defraud Investors One and Two.

142. When contacting TMTE in May 2018, Investor Four had the sole intention of purchasing silver Royal Canadian Maple Leaf coins.

143. TMTE advised Investor Four to diversity the investment. Investor Four, however, reiterated the desire to invest in only silver Royal Canadian Maple Leaf coins.

144. TMTE directed Investor Four to create a self-directed precious metals IRA for Investor Four.

145. During a three-way phone call with the broker-dealer custodian of Investor Four's IRA and Investor Four, TMTE directed Investor Four's broker-dealer custodian to sell securities from Investor Four's IRA and to transfer the proceeds to the newly created precious metals IRA.

146. After transferring Investor Four's assets to a newly created self-directed IRA with New Direction Trusty Company, TMTE exercised discretion to purchase only 251 silver Canadian Royal Mint Maple Leaf coins. Simultaneously, TMTE purchased 1060 silver Royal Canadian Mint Polar Bear coins and one silver bar. This was against Investor Four's instructions to invest only in Canadian Royal Mint Maple Leaf coins.

147. TMTE received remuneration in the amount of \$18,225.98 as a result of facilitating the sale of Investor Four's securities.

148. Separately, TMTE contacted Investor Six via telephone in March 2019.

149. Based on the advice and recommendation of TMTE, Investor Six made the decision to sell securities held in an investment account in order to invest in precious metals.

150. TMTE directed Investor Six to create a self-directed precious metals IRA.

151. During a three-way phone call with Investor Six and the broker-dealer custodian of Investor Six's IRA, TMTE directed the custodian to sell Investor the securities in Investor Six's IRA and transfer the proceeds to the newly created precious metals IRA.

152. TMTE received remuneration in the amount of \$18,225.98 as a result of facilitating the sale of Investor Six's securities.

153. In connection with two other Massachusetts investors, TMTE received remuneration in the amount of \$46,911.46 as a result of facilitating the sale of those Investors' securities.

**D. TMTE Filed Materially False Information with the Enforcement Section.**

154. The Enforcement Section issued a subpoena to TMTE on July 2, 2019.

155. The subpoena sought information regarding all Massachusetts residents who purchased precious metals from TMTE in connection with the creation of a self-directed precious metals IRA beginning on January 1, 2008.

156. TMTE filed a response on July 29, 2019, which included four Massachusetts residents and one New Hampshire resident.

157. On August 20, 2019, the Enforcement Section became aware of two additional Massachusetts investors for whom TMTE provided no information.

**VIII. VIOLATIONS OF LAW**

**Count I – Violations of MASS. GEN. LAWS ch. 110A, § 102(1)**

158. Section 102(1) of the Act provides:

It is unlawful for any person who receives, directly or indirectly, any consideration from another person primarily for advising the other person as to the value of securities or their purchase or sale, whether through the issuance of analyses or reports or otherwise

(1) to employ any device, scheme, or artifice to defraud the other person[.]

MASS. GEN. LAWS ch. 110A, § 102(1).

159. The Enforcement Section re-alleges and incorporates the allegations of fact set forth in Section VII above.

160. The conduct of Respondent, as described above, constitutes violations of MASS. GEN. LAWS ch. 110A, § 102(1).

**Count II – Violations of MASS. GEN. LAWS ch. 110A, § 102(2)**

161. Section 102(2) of the Act provides:

It is unlawful for any person who receives, directly or indirectly, any consideration from another person primarily for advising the other person as to the value of securities or their purchase or sale, whether through the issuance of analyses or reports or otherwise

(2) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon the other person.

MASS. GEN. LAWS ch. 110A, § 102(2).

162. The Enforcement Section re-alleges and incorporates the allegations of fact set forth in Section VII above.

163. The conduct of Respondent, as described above, constitutes violations of MASS. GEN. LAWS ch. 110A, § 102(2).

**Count III - Violations of MASS. GEN. LAWS ch. 110A, § 201(c)**

164. Section 201(c) of the Act provides:

It is unlawful for any person to transact business in this commonwealth as an investment adviser or as an investment adviser representative unless he is so registered under this chapter.

MASS. GEN. LAWS ch. 110A, §201(c).

165. The Enforcement Section re-alleges and incorporates the allegations of fact set forth in Section VII above.

166. The conduct of Respondent, as described above, constitutes violations of MASS. GEN. LAWS ch. 110A, § 201(c).

**Count IV – Violation of MASS. GEN. LAWS ch. 110A, § 404**

167. Section 404 of the Act provides:

It is unlawful for any person to make or cause to be made, in any document filed with the secretary or in any proceeding under this chapter, any

statement which is, at the time and in the light of the circumstances under which it is made, false or misleading in any material respect.

MASS. GEN. LAWS ch. 110A, § 404.

168. The Enforcement Section re-alleges and incorporates the allegations of fact set forth in Section VII above.

169. The conduct of Respondent, as described above, constitutes a violation of MASS.

GEN. LAWS ch. 110A, § 404.

### **IX. STATUTORY BASIS FOR RELIEF**

Section 407A of the Act provides:

(a) If the secretary determines, after notice and opportunity for hearing, that any person has engaged in or is about to engage in any act or practice constituting a violation of any provision of this chapter or any rule or order issued thereunder, he may order such person to cease and desist from such unlawful act or practice and may take such affirmative action, including the imposition of an administrative fine, the issuance of an order for an accounting, disgorgement or rescission or any other such relief as in his judgment may be necessary to carry out the purposes of [the Act].

MASS. GEN. LAWS ch. 110A, § 407A.

### **X. PUBLIC INTEREST**

For any and all of the reasons set forth above, it is in the public interest and will protect Massachusetts investors for the Director to enter an order finding that such “action is necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of this chapter [MASS. GEN. LAWS ch. 110A].”

### **XI. RELIEF REQUESTED**

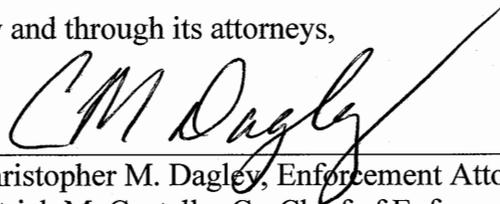
The Enforcement Section of the Division requests that an order be entered:

A. Finding as fact all allegations set forth in Section VII of the Complaint;

- B. Finding that all the sanctions and remedies detailed herein are in the public interest and necessary for the protection of Massachusetts investors;
- C. Requiring Respondent to permanently cease and desist from further conduct in violation of Sections 102(1), 102(2), 201(c), and 404 of the Act and Regulations in the Commonwealth;
- D. Censuring Respondent;
- E. Requiring Respondent to provide restitution to fairly compensate investors for those losses attributable to the alleged wrongdoing;
- F. Requiring Respondent to provide a verified accounting of all proceeds which were received as a result of the alleged wrongdoing
- G. Requiring Respondent to disgorge all profits and other direct or indirect remuneration received from the alleged wrongdoing;
- H. Permanently barring Respondent from registering in Massachusetts or conducting business in Massachusetts as an investment adviser required to be registered; an investment adviser exempt from registration; a federal covered adviser notice-filed in Massachusetts; an entity relying on an exclusion from the definition of investment adviser; a broker-dealer; or an issuer of securities;
- I. Permanently barring Respondent from advising Massachusetts residents to sell securities in order to purchase precious metals;
- J. Imposing an administrative fine on Respondent in such amount and upon such terms and conditions as the Director or Presiding Officer may determine; and
- K. Taking any such further action which may be in the public interest and necessary and appropriate for the protection of Massachusetts investors.

**MASSACHUSETTS SECURITIES DIVISION  
ENFORCEMENT SECTION**

By and through its attorneys,



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Dated: December 3, 2019