

OFFICE OF THE ATTORNEY GENERAL  
BUREAU OF SECURITIES  
STATE OF NEW JERSEY  
153 HALSEY STREET  
P.O. BOX 47029  
NEWARK, NEW JERSEY 07101

**IN THE MATTER OF:**

Interactive Brokers, LLC  
(CRD #36418)

**CONSENT ORDER**

BEFORE CHRISTOPHER W. GEROLD, BUREAU CHIEF

Pursuant to the authority granted to Christopher W. Gerold, Bureau Chief of the New Jersey Bureau of Securities (the "Bureau Chief"), under the Uniform Securities Law (1997), N.J.S.A. 49:3-47 to -83 (the "Securities Law"), and after investigation, careful review, and due consideration of the facts and statutory provisions set forth below, the Bureau Chief hereby finds that there is good cause, and it is in the public interest to enter into an Administrative Consent Order (the "Consent Order") with Interactive Brokers, LLC ("Interactive"), and Interactive hereby agrees to resolve any and all issues in controversy regarding the specific conduct described herein on the terms set forth in this Consent Order.

**WHEREAS**, the New Jersey Bureau of Securities (the "Bureau") is the State agency with the responsibility to administer and enforce the Securities Law;

**WHEREAS**, N.J.S.A. 49:3-67 authorizes the Bureau Chief from time to time to issue such Orders as are necessary to carry out the provisions of the Securities Law, upon a finding that the action is necessary and appropriate in the public interest or for the protection of investors or consistent with the purposes fairly intended by the provisions of the Securities Law;

**WHEREAS**, the Bureau has conducted an investigation into certain activities of Interactive as set forth in this Consent Order;

**WHEREAS**, Interactive has cooperated with the Bureau's investigation;

**WHEREAS**, Interactive and the Bureau Chief wish to resolve these issues without the expense and delay that formal proceedings would involve;

**WHEREAS**, Interactive consents to the form, content, and entry of this Consent Order.

Accordingly, Interactive waives the following rights:

- a. To be afforded an opportunity for hearing on the Bureau Chief's findings of fact and conclusions of law in this Consent Order; and
- b. To seek judicial review of, or otherwise challenge or contend, the validity of this Consent Order;

**WHEREAS**, Interactive agrees that solely for the purposes of settling this matter, or any future proceedings by the Bureau arising from any conduct in connection with any accounts held by Peter Zuck ("Zuck"), Osiris Fund Limited Partnership ("Osiris Fund"), Osiris Partners LLC ("Osiris Partners"), or anyone associated with the Osiris Fund, Osiris Partners, or Zuck from April 2009 through December 2011 ("Relevant Time Period"), this Consent Order shall have the same effect as if proven and ordered after a full hearing held pursuant to N.J.S.A. 52:14B-1 to -31;

**WHEREAS**, this Consent Order concludes the investigation and action by the Bureau Chief and any civil or administrative action that could be commenced, pursuant to the Securities Law, on behalf of the Bureau Chief against Interactive or any director, officer, agent or employee thereof, in connection with any accounts held by the Osiris Fund, Osiris Partners, Zuck or anyone associated with the Osiris Fund, Osiris Partners, or Zuck during the Relevant Time Period; and

**WHEREAS**, Interactive hereby accepts and consents to the entry of this Consent Order, without admitting or denying the Findings of Fact and Conclusions of Law, and solely for the purpose of this proceeding.

The Bureau Chief makes the following Findings of Facts and Conclusions of Law:

**FINDINGS OF FACT**

1. Interactive Brokers LLC (CRD #36418) is a Connecticut limited liability company headquartered at 2 Pickwick Plaza, Greenwich, Connecticut, with regional offices in Chicago, Illinois, and the District of Columbia. Interactive is registered with the Bureau as a broker-dealer and is a member of the Financial Industry Regulatory Authority (“FINRA”). Interactive is also registered with the U.S. Commodity Futures Trading Commission (the “CFTC”) as a futures commission merchant (“FCM”) and member of the National Futures Association (the “NFA”). Interactive is owned by Interactive Brokers Group, Inc., which is publicly traded under the symbol “IBKR.”

**A. Peter Zuck and the Osiris Entities**

2. Peter Zuck, who resided in Middletown, New Jersey, was not registered in any capacity with the Bureau or any other regulatory agency that regulates the securities, commodities, and futures industries during the “Relevant Time Period.

3. Zuck is a recidivist violator of the securities and commodity futures laws, and a convicted white-collar criminal. In August 1991, Zuck was permanently barred from association with any NFA member, as a result of charges that he refused to cooperate in an NFA investigation, and Zuck’s misuse and/or mishandling of customer accounts and funds. Between 1994 and 2002, Zuck pled guilty in New Jersey Superior Court to three separate instances of fraud and other wrongful conduct.

4. On April 11, 2017, Zuck pled guilty in the United States District Court for the District of New Jersey to conspiracy to commit wire fraud and tax evasion as a result of his conduct with the Osiris Fund Limited Partnership and Osiris Partners, LLC as detailed below. On September 6, 2017, Zuck was sentenced to three years in prison by United States District Judge Joseph Rodriguez.

5. Osiris Partners LLC (“Osiris Partners”) was a New Jersey limited liability company formed on or about April 25, 2009 that maintained a principal place of business at 55 Spruce Street, Jersey City, New Jersey. Zuck controlled Osiris Partners and was a managing member during the Relevant Time Period.

6. Osiris Fund was a New Jersey limited partnership formed on June 25, 2009 that maintained a principal place of business at 55 Spruce Street, Jersey City, New Jersey. Osiris was a hedge fund that sought and managed funds from third party investors. During the Relevant Time Period, Peter Zuck was primarily responsible for the management of Osiris.

7. During the Relevant Time Period, Osiris Partners sold approximately \$12 million of limited partnership interests in the Osiris Fund (the “Osiris Fund Securities”) to approximately seventy-six investors. Money raised from the sale of the Osiris Fund Securities was ultimately transferred into Osiris Fund’s accounts held at Interactive and traded by Zuck.

#### **B. The Osiris Scheme**

8. On August 7, 2012, the Bureau filed an action in the Superior Court of New Jersey against Zuck, Osiris Partners, the Osiris Fund, and others, entitled Hoffman et al. v. Zuck, et al. Docket No.: HUD-C-125-12 (the “Action”) alleging violations of the Securities Law, including its antifraud provisions. By Order dated August 22, 2012, the court appointed Richard W. Barry as the Receiver of Osiris Partners and the Osiris Fund. Specifically, during the Relevant Time Period, Zuck represented the trading strategy to investors of the Osiris Fund as a low-risk, hedged investment. In reality, the Osiris Fund’s portfolio was neither low risk, nor hedged. Zuck and

Osiris Partners instead implemented a volatile, high-risk strategy for the Osiris Fund that involved the leveraged purchase and sale of equity securities, option contracts, and futures. Zuck concealed the speculative nature of his trading from investors, misled investors about the extraordinary risks of an investment into the Osiris Fund, and concealed his criminal and regulatory history from those investors.

9. After some early trading profits, the Osiris Fund account lost approximately \$4.5 million in April and May 2010. Zuck and Osiris Partners did not disclose these trading losses to investors. Instead, Zuck and Osiris Partners sent investors falsified account statements, starting with the May 2010 statement that reflected a fictitious asset worth approximately \$5 million.

10. From approximately January 2010 to October 2011, Zuck and Osiris Partners took approximately \$3.9 million from the Osiris Fund by charging three percent monthly (36 percent annual) management fees based on inflated and fictitious assets, as well as by diverting additional funds to Zuck and others.

11. During the Relevant Time Period, Zuck, Osiris Partners, and the Osiris Fund opened and maintained trading accounts at Interactive. However, Zuck and his co-defendants' fraudulent conduct was not known by Interactive Brokers or its personnel; and Zuck's conversion of investor funds and levying of management fees did not take place in the Osiris-related accounts at Interactive Brokers, but from other financial accounts at other financial institutions.

12. On April 25, 2014, the Bureau settled its Action with Zuck by requiring, among other things, payment of restitution, civil monetary penalties, and disgorgement of ill-gotten gains. The Bureau also settled with certain other defendants. On May 9, 2014, the Court granted the Bureau's Motion for Summary Judgment and Final Judgment by Default against the remaining non-settling

defendants and ordered, among other things, over \$7.6 million of restitution owing to the Bureau for the defrauded Osiris Fund investors.

**C. Interactive Failed to Discover Zuck's NFA Bar During the Account Opening Process**

13. During the Relevant Time Period (and currently), Interactive promoted, advertised, and marketed a platform on which a master user could manage up to fifteen sub-accounts. This platform is designed for managing "Friends and Family" accounts or for exempt investment advisers or investment advisers that are not required to be registered or licensed.

14. Neither Zuck nor his co-defendants have ever been employed by or associated with Interactive. However, during the Relevant Time Period, Zuck opened at least sixteen accounts on the Interactive platform. Zuck opened two master accounts in his own name and eleven sub-accounts in the names of other individuals that were linked to the Zuck master accounts. Zuck opened an Osiris Partners master account, as well as Osiris Partners and Osiris Fund sub-accounts, all of which identified him as an officer, partner, trader, and/or managing member.

15. During the Relevant Time Period, Interactive's relevant written supervisory procedures ("Interactive's Policies") required Interactive to obtain and verify certain information from new account applicants prior to opening and approving an account to trade. Under Interactive's Policies, the required information differed based on the type of applicant (e.g., individual, organization, unincorporated business, Financial Advisor ("FA"), Broker). While Zuck provided responses to the required disclosure questions, he did not disclose his regulatory and criminal history on any of the account applications submitted to Interactive.

16. As part of its account opening process, Interactive conducted certain automated checks, which included a search of two databases provided by outside vendors containing adverse public information such as criminal and regulatory issues, litigation history, credit problems and other

adverse material. Interactive personnel also conducted manual Google searches in addition to these two database checks. The background checks that Interactive conducted did not reveal Zuck's criminal history nor the NFA bar.

17. During the Relevant Time Period, the NFA's online public information database, Background Affiliation Status Information Center ("BASIC") was publicly available to review the disciplinary history and the registration status of Interactive's customers. Notwithstanding the availability of this database, Interactive failed to perform a separate search of the NFA BASIC system, and did not detect Zuck's NFA bar.

18. On December 30, 2017, the Receiver commenced an arbitration on behalf of Osiris Fund against Interactive before FINRA. Interactive has entered into an agreement resolving all of the Receiver's claims against Interactive.

19. Since the time of the Osiris fraud, Interactive has enhanced its supervisory procedures including many other due diligence processes. Interactive now conducts a search of the NFA BASIC database and other online sources for all advisory account including, but not limited to its "Friends and Family" platform and hedge fund account applications.

#### **CONCLUSIONS OF LAW**

20. The Bureau has jurisdiction over this matter pursuant to the Securities Law.

21. Interactive's failure to conduct the NFA BASIC search during the account opening process for Zuck and Osiris-related accounts constitutes a failure to reasonably supervise pursuant to N.J.S.A. 49:3-58(a)(2)(xi).

22. It is in the public interest to take action against Interactive pursuant to N.J.S.A. 49:3-58(a)(1).

23. Pursuant to N.J.S.A. 49:3-70.1, violations described above constitute a basis for the

assessment of civil monetary penalties against Interactive.

**THEREFORE**, it is on this 11<sup>th</sup> day of Feb 2018, **ORDERED** and **AGREED** that:

24. Interactive shall comply with the Securities Law.

25. Interactive shall review and revise as necessary (to the extent it has not done so already), its policies and procedures regarding its client account opening procedures, including but not limited to, accounts over which an adviser or other third party exercised discretion over a client account, so that they are reasonably designed to prevent the type of conduct described in this Consent Order from occurring in the future.

26. Pursuant to N.J.S.A. 49:3-70.1, Interactive is assessed and shall pay a civil monetary penalty in the amount of \$100,000.00, due and payable upon execution of this Consent Order, to "State of New Jersey, Bureau of Securities." The payment shall be delivered to 153 Halsey Street, 6<sup>th</sup> Floor, Newark, NJ 07102, or mailed to "New Jersey Bureau of Securities," P.O. Box 47029, Newark, NJ 07101. The civil monetary payment shall be deposited in the Securities Enforcement Fund, pursuant to N.J.S.A. 49:3-66.1.

#### **ADDITIONAL PROVISIONS**

27. Interactive has read this Consent Order, understands it, and agrees to be bound by its terms.

28. Interactive consents to the jurisdiction of the Bureau.

29. No person representing, or employee, or official of the Bureau or the State of New Jersey has made any additional promise or representation to Interactive or its counsel regarding this Consent Order.

30. This Order is entered solely for the purpose of resolving the above-referenced investigation, and is not intended to be used for any other purpose. This order does not create any private rights or remedies against Interactive, or limit any defense of Interactive, in any action.

31. This Consent Order shall not bind any person not a party hereto, except as provided herein.

32. Interactive has read this Consent Order, understands it, and agrees to be bound by its terms.

Interactive represents that it has had ample opportunity to consult with an attorney regarding this Consent Order.

33. In the event that Interactive violates this Consent Order, the Bureau Chief may vacate this Consent Order and take further action against Interactive or any director, officer, agent or employee thereof under the Securities Law.

NEW JERSEY BUREAU OF SECURITIES

By:

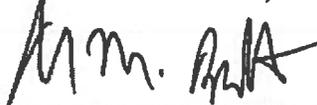
  
CHRISTOPHER W. GEROLD  
BUREAU CHIEF

2/11/19

INTERACTIVE BROKERS, LLC

DATED:

1/24/19

By: 

Name:

David M. Battan

Title:

EVP + General Counsel

MARINO, TORTORELLA & BOYLE, P.C.  
437 Southern Boulevard  
Chatham, New Jersey 07928-1488  
Counsel for Interactive Brokers, LLC

DATED: 1/25/19

By: 

Kevin H. Marino, Esq.