

STATE OF OKLAHOMA
DEPARTMENT OF SECURITIES
FIRST NATIONAL CENTER, SUITE 860
120 NORTH ROBINSON
OKLAHOMA CITY, OKLAHOMA 73102



In the Matter of:

Waddell & Reed, Inc. (CRD# 866),
Lonnie G. Brown (CRD# 1341537), and
John K. Maloney (CRD# 1248200).

Respondents.

ODS File No. 06-126

NOTICE OF SERVICE ON THE ADMINISTRATOR
AND
AFFIDAVIT OF COMPLIANCE

STATE OF OKLAHOMA)
) ss.
COUNTY OF OKLAHOMA)

The undersigned affiant, of lawful age, being first duly sworn upon oath deposes and states:

1. That he is the Administrator of the Oklahoma Department of Securities (“Administrator”).
2. That a copy of the Notice of Opportunity for Hearing (“Notice”) with Enforcement Division Recommendation (“Recommendation”) attached was delivered to Affiant in the office of the Administrator pursuant to Section 1-611 of the Oklahoma Uniform Securities Act (“Act”), Okla. Stat. tit. 71, §§ 1-101 through 1-701 (Supp. 2004).
3. That the Administrator has received service of process on behalf of Respondents, pursuant to Section 1-611 of the Act.
4. That a copy of the Notice, with the Recommendation attached, and a copy of this Notice of Service on the Administrator and Affidavit of Compliance are being sent this 19th day of June, 2008, by certified mail, return receipt requested, delivery restricted to addressee, to the last known addresses of Respondents, in compliance with Section 1-611 of the Act.
5. That this Affidavit of Compliance is declared filed of record as of the date set forth below in compliance with Section 1-611 of the Act.

FURTHER AFFIANT SAYETH NOT.

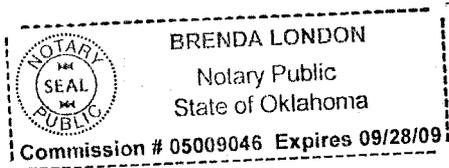
Dated this 19th day of June, 2008.

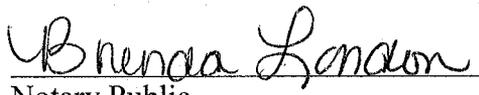
(SEAL)



IRVING L. FAUGHT, ADMINISTRATOR OF THE
OKLAHOMA DEPARTMENT OF SECURITIES

Subscribed and sworn to before me this 19th day of June, 2008.





Notary Public

STATE OF OKLAHOMA
DEPARTMENT OF SECURITIES
FIRST NATIONAL CENTER, SUITE 860
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OKLAHOMA CITY, OKLAHOMA 73102



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John K. Maloney (CRD# 1248200).

Respondents.

ODS File No. 06-126

NOTICE OF OPPORTUNITY FOR HEARING

1. Pursuant to Section 1-602 of the Oklahoma Uniform Securities Act of 2004 (“Act”), Okla. Stat. tit. 71, §§ 1-101 through 1-701 (Supp. 2004), and Section 405 of the Oklahoma Securities Act (“Predecessor Act”), Okla. Stat. tit. 71, §§ 1-413, 501, 701 through 703 (2001 & Supp. 2003), *repealed by* the Act, the Oklahoma Department of Securities (“Department”) conducted an investigation into the activities of Waddell & Reed, Inc. (“Waddell & Reed”), Lonnie G. Brown (“Brown”), and John K. Maloney (“Maloney”) (collectively, “Respondents”), in connection with the offer and/or sale of securities in and/or from the state of Oklahoma.

2. On the 16th day of June, 2008, the attached Enforcement Division Recommendation (“Recommendation”) was left in the office of the Administrator of the Oklahoma Department of Securities (“Administrator”).

3. Pursuant to 660:2-9-1 of the Rules of the Oklahoma Securities Commission and the Administrator of the Department of Securities (as amended July 1, 2007) (“Rules”), the Administrator hereby gives notice to Respondents of their obligation to file an answer and their right to request a hearing to show why an order based on the Recommendation should not be issued.

4. The answers must be in writing and received by the Administrator within fifteen (15) days after service of this Notice. As required by 660:2-9-2 of the Rules, the answers shall indicate whether Respondents request a hearing and shall specifically admit or deny each allegation contained in the Recommendation or state that Respondents do not have, and are unable to obtain, sufficient information to admit or deny each allegation.

5. Failure to file an answer in compliance with 660:2-9-2 of the Rules or to request a hearing as provided for herein shall result in the issuance of a final order suspending Brown and Maloney from association with a broker-dealer or investment adviser subject to the provisions of the Act for ten (10) business days; censuring Waddell & Reed; imposing civil penalties against

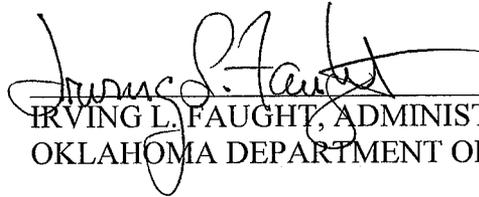
Brown and Maloney in the amount of Five Thousand Dollars (\$5,000) each; and imposing a civil penalty against Waddell & Reed in the amount of Twenty Five Thousand Dollars (\$25,000), pursuant to 660:2-9-2 of the Rules.

6. Upon receipt of a written request, pursuant to 660:2-9-2 of the Rules, a hearing on the Recommendation shall be promptly scheduled or a written order denying hearing shall be issued.

7. Notice of the date, time and location of the hearing shall be given to Respondents not less than forty-five (45) days in advance thereof, pursuant to 660:2-9-2 of the Rules.

Witness my Hand and the Official Seal of the Oklahoma Department of Securities this 19th day of June, 2008.

(SEAL)


IRVING L. FAUGHT, ADMINISTRATOR OF THE
OKLAHOMA DEPARTMENT OF SECURITIES

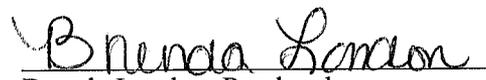
CERTIFICATE OF MAILING

The undersigned hereby certifies that on the 19th day of June, 2008, a true and correct copy of the above and foregoing Notice of Opportunity for Hearing and attached Enforcement Division Recommendation was mailed by certified mail, return receipt requested, delivery restricted, with postage prepaid thereon, addressed to:

Lonnie G. Brown
508 West 15th Street
Edmond, OK 73013

John K. Maloney
508 West 15th Street
Edmond, OK 73013

Amy E. Rush
Senior Regulatory Counsel
Waddell & Reed, Inc.
6300 Lamar Avenue
Overland Park, KS 66202-4200


Brenda London, Paralegal

STATE OF OKLAHOMA
DEPARTMENT OF SECURITIES
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In the Matter of:

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ENFORCEMENT DIVISION RECOMMENDATION

Pursuant to Section 1-602 of the Oklahoma Uniform Securities Act of 2004 ("Act"), Okla. Stat. tit. 71, §§ 1-101 through 1-701 (Supp. 2004), and Section 405 of the Oklahoma Securities Act ("Predecessor Act"), Okla. Stat. tit. 71, §§ 1-413, 501, 701 through 703 (2001 & Supp. 2003), *repealed by* the Act, the Oklahoma Department of Securities ("Department") conducted an investigation into the activities of Waddell & Reed, Inc. ("Waddell & Reed"), Lonnie G. Brown ("Brown"), and John K. Maloney ("Maloney") (collectively, "Respondents"), in connection with the offer and/or sale of securities in and/or from the state of Oklahoma. Based thereon, the following Findings of Fact, Authorities, and Conclusions of Law are submitted to the Administrator of the Department ("Administrator") in support of sanctions against Respondents.

Findings of Fact

Background

1. At all times material hereto, Waddell & Reed was a broker-dealer registered under the Predecessor Act, an investment adviser registered with the United States Securities and Exchange Commission ("SEC"), and a member of the NASD (currently known as, "FINRA"). Waddell & Reed remains registered as a broker-dealer under the Act, registered as an investment adviser with the SEC, and a member of FINRA. Waddell & Reed's main office is located in Overland Park, Kansas.

2. At all times material hereto, Brown was registered as an agent and investment adviser representative of Waddell & Reed under the Predecessor Act and remains registered as such under the Act. Brown operates, and has operated at all times material hereto, from Waddell & Reed's Office of Supervisory Jurisdiction ("OSJ") located at 508 West Fifteenth Street in Edmond, Oklahoma ("Edmond Office").

3. At all times material hereto, Maloney was registered as an agent, principal, and investment adviser representative of Waddell & Reed under the Predecessor Act and remains registered as such under the Act. Maloney is, and was at all times material hereto, the Division Manager (currently known as, "Managing Principal") of the Edmond Office and the designated principal of Brown.

4. At all times material hereto, Section 72(t)(1) of the Internal Revenue Code ("IRC") imposed an additional tax of 10 percent on the portion of distributions from qualified retirement plans includible in the taxpayer's gross income. At all times material hereto, Section 72(t)(2)(A)(iv) of the IRC provided an exception to the 10 percent tax for distributions that are "part of a series of substantially equal periodic payments ["SEPPs"] (not less frequently than annually) made for the life (or life expectancy) of the employee or the joint lives (or joint live expectancies) of such employee and his designated beneficiary." At all times material hereto, Section 72(t)(4) of the IRC provided that the exception for SEPPs does not apply if the payments are subsequently modified: (1) "before the close of the 5-year period beginning with the date of the first payment and after the employee attains 59 1/2"; or (2) "before the employee attains age 59 1/2[.]"

5. In March 1989, the Internal Revenue Service ("IRS") published Revenue Ruling 89-25 that provided guidance on what constitutes a series of SEPPs for purposes of Section 72(t)(2)(A)(iv). Revenue Ruling 89-25 set forth three methods of calculating SEPPs that have been labeled as the required minimum distribution method, the fixed amortization method, and the fixed annuitization method. Both the fixed amortization method and the fixed annuitization method rely on an "interest rate that does not exceed a reasonable interest rate on the date payments commence" in the calculation of SEPPs.

6. In October 2002, the IRS released Revenue Ruling 2002-62 that modified the provisions of Revenue Ruling 89-25 that related to SEPPs. With respect to the fixed amortization and fixed annuitization methods, Revenue Ruling 2002-62 mandates that "any interest rate that is not more than 120 percent of the federal mid-term rate . . . for either of the two months immediately preceding the month in which the distribution begins" may be used. Revenue Ruling 2002-62 also permits an individual who began his distributions using either the fixed amortization method or the fixed annuitization method to make a one time switch to the required minimum distribution method for the year of the switch and all subsequent years.

7. Prior to Revenue Ruling 2002-62, the IRS did not provide binding authority as to what was considered a "reasonable interest rate" for purposes of calculating SEPPs. However, in multiple Information Letters and Private Letter Rulings, the IRS indicated that any rate that did not exceed 120 percent of the federal mid-term rate was considered reasonable. The federal mid-term rate is published by the IRS on a monthly basis.

8. Prior to Revenue Ruling 2002-62 and at all times material hereto, Waddell & Reed did not have any compliance guidelines for its agents directly relating to section 72(t) of the IRC including, but not limited to, the calculation of SEPPs pursuant to section 72(t)(2)(A)(iv). Waddell & Reed also had not established any written procedures designed to specifically supervise the activities of its agents with respect to the calculation of SEPPs.

9. Prior to Revenue Ruling 2002-62 and at all times material hereto, Waddell & Reed provided its agents with a retirement plan calculator, in the form of a computer program, for calculating SEPPs for purposes of Section 72(t) of the IRC ("Calculator"). When an interest rate in excess of 8 percent was entered into the Calculator for purposes of determining the amount of a SEPP, the Calculator would provide a warning message. Version 99.9 of the Calculator, effective November 5, 1999, provided the following message: "Warning, if your interest rate is greater than 8% the IRS requires that you obtain a letter of consent from them." Version 2000.6 of the Calculator, effective October 25, 2000, provided this warning:

Your interest rate is too high! An interest rate of more than 8% should not be used. If your client directs you to input an interest rate of more than 8%, it is strongly recommended [sic] the client request a Private Letter Ruling [sic] from the IRS.

Both warning messages required the user to click on the "OK" button to proceed with the calculation.

10. At all times material hereto, Waddell & Reed's supervisory procedures for financial advisors stated, "Your sales presentation must be true, factual and complete and must not be misleading through misuse or omission of fact. . . . Do not guarantee investments or rates of return."

11. At all times material hereto, Waddell & Reed's supervisory procedures for financial advisors stated, "You should emphasize to clients when selling mutual funds, variable annuity/life products and other investments that are not federally guaranteed, that these securities products, while potentially providing attractive returns, are not the same as certificates of deposit (CDs), are not government insured, and have varying risks associated with them."

12. At all times material hereto, Waddell & Reed's supervisory procedures for Division Managers provided, in part:

Division Managers, assisted in some cases by Associate Managers or District Managers, are responsible for the ongoing compliance education and day-to-day supervision of the activities of all financial advisors in their respective office to assure compliance with: **The Supervisory Procedures of Waddell & Reed, Inc., . . . The Compliance Information for Financial Advisors . . . Applicable federal and state securities laws and regulations[,] [and] The Rules of the NASD** The Division Manager is charged with adequately carrying out, implementing and enforcing the written Supervisory Procedures adopted by Waddell & Reed, Inc....The Division Manager's overall supervisory responsibility is to ensure that all securities business conducted by advisors assigned to him/her is proper.

13. At all times material hereto, Waddell & Reed's supervisory procedures for Division Managers provided, in part:

All Applications and other transaction requests involving a purchase, exchange or redemption recommended by an advisor must be submitted to the division office for review, and verification that all required forms are properly completed, prior to sending them to the home office for final review and acceptance. The Division Manager is responsible for supervising the review and verification of all recommended transactions for the following purposes: 1. **Assure Suitability . . .** 2. **Detect and Prevent Sales Irregularities . . .** 3. **Prevent Prohibited Activity[.]**

The Division Manager, or his designee, must apply a "Division Stamp" to indicate "to the home office that information pertaining to the order/recommendation has been reviewed and recorded at the division and that the Division Manager recommends the order/transaction for final acceptance by the home office."

Client Accounts

14. At all times material hereto, Brown was the agent of record for at least four (4) individual retirement accounts ("Relevant IRAs") that were funded with the proceeds of retirement plans from Halliburton Energy ("Halliburton"), during the years 1999 and/or 2000. The account holders of the Relevant IRAs (referred to individually as "Client A," "Client B," "Client C," and "Client D" and collectively as "Clients") were relatively unsophisticated investors who retired from Halliburton in their late forties or early fifties. After retiring, the Clients immediately began receiving SEPP distributions from the Relevant IRAs in reliance on section 72(t)(2)(A)(iv) of the IRC.

Client A

15. Client A, a married man, was an owner of a Relevant IRA. Client A was born in 1946. Client A retired from Halliburton Energy in or about January 1999.

16. Client A's co-workers referred him to Brown. Client A met with Brown two or three times during the year 1998 for financial planning services. Client A and his wife had a net worth of approximately \$525,000, including Client A's expected Halliburton retirement account. During one of the meetings, Brown, *inter alia*, asked Client A to determine the minimum annual income necessary for him and his wife. Client A determined that an annual income of approximately \$42,500 was necessary to maintain his current standard of living. Brown informed Client A that if he retired and rolled his retirement funds into an individual retirement account at Waddell & Reed, Client A could retire and withdraw \$3,600 a month from his retirement funds. Brown represented to Client A that his retirement account would have to achieve an annual rate of return of approximately 10.5 percent for Client A not to lose any of his principal. Brown assured Client A that he would make at least 10.5 percent, and would probably make an extra 8 percent, on his retirement funds.

17. In January 1999, Halliburton offered early retirement to employees who volunteered to retire on a certain date, as part of a staff reduction plan. In reliance on Brown's assurances, Client A voluntarily retired on that date. Client A was 52 years old.

18. Client A funded his Relevant IRA with approximately \$406,620 and began receiving monthly distributions in the amount of \$3,600 in March 1999. This equates to an assumed interest rate of approximately 10.35 percent using the fixed amortization method. This interest rate far exceeded 120 percent of the federal mid-term rate for March 1999.

19. A *Waddell & Reed Funds and/or United Group of Funds Flexible Withdrawal Service* form ("FWS Form"), signed by Client A on March 4, 1999, authorized the monthly withdrawal from Client A's Relevant IRA. Client A's FWS Form contained the following handwritten statement: "This is Early retirement @ 10.5%[.]" Client A's FWS Form provided instructions regarding the dollar amount of the mutual funds to be liquidated in the Relevant IRA to fund the monthly withdrawals. Client A's FWS Form does not contain any evidence of review or approval by Maloney or any other principal of Waddell & Reed.

20. An *Account Service Request* form ("ASR Form"), signed by Client A on March 19, 1999, also provided instructions regarding which mutual funds in Client A's Relevant IRA, were to be redeemed each month. Client A's ASR Form contained the following handwritten statement: "1st Installment of Early Retirement Figured @ 10.5%[.]" Client A's ASR Form does not contain any evidence of review or approval by Maloney or any other principal of Waddell & Reed.

21. In 2003, Client A went back to work full-time at Halliburton due to the substantial decline in the value of his Relevant IRA. When he returned to full-time employment, Client A started depositing his monthly withdrawals into a Roth IRA until he turned 59 ½ in April 2005 and could cease the withdrawals.

22. In or about January 2005, Client A decreased the amount of his monthly withdrawals by switching to the required minimum distribution method to determine the amount of his SEPPs.

23. In May 2005, Client A transferred his Relevant IRA out of Waddell & Reed. Client A's Relevant IRA had a market value of approximately \$212,745 at the time of transfer.

Client B

24. Client B, a married man, was an owner of a Relevant IRA. Client B was born in 1950. Client B was employed by Halliburton for approximately 29 years and retired in or about February 2000.

25. Client B's co-workers referred him to Brown. In about November or December 1999, Client B contacted Brown to determine if he could retire like several of his co-workers had recently done. Client B and his wife had savings of approximately \$32,500, in addition to the amount in Client B's Halliburton retirement account.

26. Brown met with Client B two or three times in November and/or December 1999. During one of the meetings in December 1999, Client B, or someone on his behalf, completed a Waddell & Reed form containing "Confidential Client Data." On that form, Client B's "most

significant financial concerns” were stated as: (1) “Retain Value on Retirement”; and (2) “Maintain Lifestyle”. Brown informed Client B that he had enough assets to retire and to live comfortably for the rest of his life. Brown informed Client B that if he retired and rolled his retirement funds into an individual retirement account at Waddell & Reed, Client B could receive a monthly distribution of \$3,600 and not decrease the amount of his principal investment. Brown’s projection was based on Client B receiving SEPPs calculated under the fixed amortization method using an interest rate between 10.5 and 11 percent. Brown explained to Client B that some of his co-workers based their SEPPs on a 12 percent interest rate. Brown assured Client B that the return on his investments would be high enough to protect the amount of his principal.

27. Client B did not request a SEPP in the amount of \$3,600 prior to Brown’s suggestion of a monthly distribution in that amount. Client B could have survived on a monthly withdrawal of an amount less than \$3,600.

28. Based on Brown’s assurances that he would be able to receive a monthly withdrawal of \$3,600 and retain the value of his principal, Client B decided to retire.

29. In January 2000, Client B voluntarily submitted his notice of retirement to his employer, to be effective in February 2000. Client B was forty-nine (49) years old at the time. Client B’s retirement was not part of any staff reduction plan, or any other form of layoff, by his employer.

30. Client B funded his Relevant IRA with approximately \$392,209 and began receiving monthly distributions of \$3,600 in March 2000. This equates to an assumed interest rate of approximately 10.85 percent using the fixed amortization method. This interest rate far exceeded 120 percent of the federal mid-term rate for March 2000.

31. A *United Group of Funds Application Retirement Plan Account* (“UG Application”) signed by Client B and Brown on January 14, 2000, authorized the purchase of certain mutual funds in Client B’s Relevant IRA, the monthly withdrawal from the Relevant IRA, and the dollar amount of the mutual funds to be liquidated monthly to fund the monthly withdrawal. Client B’s UG Application contains a handwritten note that states: “This is Early Retirement Set up @ 11% Pre Dist Exempt.” Client B’s UG Application contained a stamp indicating that the form had been reviewed and recorded on January 19, 2000, by Maloney or someone designated by him.

32. In or about April 2002, Client B transferred his Relevant IRA out of Waddell & Reed due to the substantial decline in the value of his account. Client B’s Relevant IRA had a market value of approximately \$160,977 at the time of the transfer.

33. Client B was employed part-time during retirement. Client B went back to work at Halliburton full-time in May 2003 because of the continual decline in the value of his Relevant IRA.

Client C

34. Client C, a single woman, was an owner of a Relevant IRA. Client C was born in 1947. Client C was employed by Halliburton for approximately 29 years and retired in or about March 2000.

35. Client C's co-workers referred her to Brown. Client C's only substantial asset was her Halliburton retirement account. Client C told Brown that she would need to be able to withdraw \$2,500 a month from her retirement funds to be able to afford to retire. Brown indicated that would be "no problem." Brown represented to Client C that she could afford to retire and still have enough money to throw a party, remodel her house, and/or go on a cruise.

36. Based on Brown's representations, Client C retired in March 2000 at the age of 52 and funded her Relevant IRA with approximately \$300,022. Client C immediately began withdrawing \$2,700 per month, which was \$200 more than was originally planned. This distribution amount assumes an interest rate of approximately 10.3 percent using the fixed amortization method. This interest rate far exceeded 120 percent of the federal mid-term rate for March 2000. Brown set up the monthly withdrawal without any expression of concern or objection.

37. A UG Application signed by Client C and Brown on March 20, 2000, authorized the purchase of certain mutual funds in Client C's Relevant IRA, the monthly withdrawal from the Relevant IRA, and the dollar amount of the mutual funds to be redeemed each month to fund the monthly withdrawal. Client C's UG Application contains a stamp indicating that it was reviewed and recorded on March 27, 2000, by Maloney or someone designated by him.

38. Client C redeemed the holdings in her Relevant IRA in or about January 2006. Client C's Relevant IRA had a market value of approximately \$1,046 at that time.

Client D

39. Client D, a married man, was an owner of a Relevant IRA. Client D was born in 1949. Client D was employed by Halliburton for approximately twenty-seven years and retired in or about March 2000.

40. Client D's co-workers referred him to Brown. Client D and his wife had a net worth of approximately \$500,000, including the amount in Client D's Halliburton retirement account. Client D met with Brown and told him that he wanted to retire and receive \$3,900 a month from his retirement account. Brown informed Client D that he would have to earn 12 percent annually on his retirement funds for this to happen. Brown represented to Client D that it would be no problem to achieve an annual rate of return of 12 percent in light of the performance history of the mutual funds he was recommending.

41. In reliance on Brown's representations, Client D retired in March 2000 at the age of 50. Client D funded his Relevant IRA with approximately \$380,924 and began withdrawing \$3,900 a month in April 2000. This equates to an assumed interest rate of approximately 12.15

percent using the fixed amortization method. This interest rate far exceeded 120 percent of the federal mid-term rate for April 2000.

42. A UG Application signed by Client D and Brown on March 6, 2000, authorized the purchase of certain mutual funds in Client D's Relevant IRA, the monthly withdrawal from the Relevant IRA, and the dollar amount of the mutual funds to be redeemed each month to fund the monthly withdrawal. Client D's UG Application contained a handwritten note stating: "This is Early Retirement Set up at 12%[.]" The form contains a stamp indicating that it was reviewed and recorded on March 9, 2000, by Maloney or someone designated by him.

43. Client D's Relevant IRA was completely depleted in or about September 2005.

44. Based on optimistic market projections, Brown led his Clients to believe that they could afford to retire early, live off of monthly withdrawals from their Relevant IRAs, and live comfortably for the rest of their lives.

45. At no time prior to the beginning of the monthly withdrawals from the Relevant IRAs did Brown inform his Clients that the amounts of the monthly withdrawals were based on potentially unreasonable interest rates that could lead to adverse tax consequences and the premature depletion of the Relevant IRAs.

46. None of the Clients obtained a "letter of consent" or a Private Letter Ruling, relating to their reliance on an interest rate greater than 8 percent, from the IRS.

47. Brown failed to inform his Clients that the Calculator provided by Waddell & Reed indicated that the IRS required that they receive letters of consent before relying on interest rates in excess of 8 percent.

48. The ASR, FWS, and UG Application forms that stated the interest rates being relied upon by the Clients were "red flags" that Maloney ignored and/or failed to adequately investigate.

49. The fact that Brown had several clients, who were retiring in their late forties and early fifties and relying on SEPPs, created a "red flag" that Maloney ignored and/or failed to adequately investigate.

To the extent any of these Findings of Fact are more properly characterized as Conclusions of Law, they should be so considered.

Authorities

1. Section 1-602 of the Act provides in pertinent part:
 - A. The Administrator may:

1. Conduct public or private investigations within or outside of this state which the Administrator considers necessary or appropriate to determine whether a person has violated, is violating, or is about to violate this act or a rule adopted or order issued under this act, or to aid in the enforcement of this act or in the adoption of rules and forms under this act[.]
2. Section 1-701 of the Act provides in pertinent part:
 - A. The predecessor act exclusively governs all actions or proceedings that are pending on the effective date of this act or may be instituted on the basis of conduct occurring before the effective date of this act, but a civil action may not be maintained to enforce any liability under the predecessor act unless instituted within any period of limitation that applied when the cause of action accrued or within five (5) years after the effective date of this act, whichever is earlier.
3. Section 405 of the Predecessor Act (1991 & Supp. 1999 & Supp. 2000) provides in pertinent part:
 - (a) The Administrator in his discretion:
 - (1) may make such public or private investigations within or outside of this state as he deems necessary to determine whether any person has violated or is about to violate any provision of this act or any rule or order hereunder, or to aid in the enforcement of this act or in the prescribing of rules and forms hereunder[.]
4. Section 101 of the Predecessor Act (1991) provides in pertinent part:

It is unlawful for any person, in connection with the offer, sale, or purchase of any security, directly or indirectly

 - (1) to employ any device, scheme, or artifice to defraud,
 - (2) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading,
 - (3) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

5. Section 406 of the Predecessor Act (Supp. 1999 & Supp. 2000) provides in pertinent part:

(a) If the Administrator reasonably believes, whether or not based upon an investigation conducted under Section 405 of this title, that a person has violated the Oklahoma Securities Act, except under the provisions of Section 202.1 or 305.2 of this title, or a rule or order of the Administrator under the Oklahoma Securities Act or has engaged in dishonest or unethical practices in the securities business, the Administrator, in addition to any specific power granted by any other section of the Oklahoma Securities Act, may impose one or more of the following sanctions:

- (1) issue an order against the person to cease and desist from engaging in such violation or dishonest or unethical practices or doing any act in furtherance thereof;
- (2) censure the person, if the person is a registered broker-dealer, agent, investment adviser, or investment adviser representative;
- (3) bar or suspend the person from association with a broker-dealer or investment adviser subject to the provisions of the Oklahoma Securities Act;
- (4) place limitations on the activities, functions, or operations of the person;
- (5) issue an order against a person who willfully violates the Oklahoma Securities Act or a rule or order of the Administrator under the Oklahoma Securities Act, imposing a civil penalty up to a maximum of Five Thousand Dollars (\$5,000.00) for a single violation or transaction or of Fifty Thousand Dollars (\$50,000.00) for multiple violations or transactions in a single proceeding or a series of related proceedings; or
- (6) recover the costs of the investigation conducted under Section 405 of this title.

6. Rule 660:10-5-42 of the Rules of the Oklahoma Securities Commission and the Administrator of the Department of Securities (as amended July 15, 1998) ("1998 Oklahoma Rules") stated in pertinent part:

(a) Purpose. This rule is intended to set forth the standards of ethical practices for broker-dealers and their agents. Any noncompliance with the Standards of Ethical Practices specified in this Section will constitute unethical practices in the securities business. The standards shall be

interpreted in such manner as will aid in effectuating the policy and provisions of the Securities Act, and so as to require that all practices of broker-dealers, and their agents, in connection with their activities in this state shall be just, reasonable and not unfairly discriminatory. The standards set forth in this Section shall apply to all broker-dealers and their agents if applicable. A broker-dealer or agent whose registration has been suspended shall be considered as nonactive during the period of suspension for purposes of applying the provisions of the standards. Nevertheless, such persons shall have all of the obligations imposed by the Securities Act, these Standards of Ethical Practices and other applicable rules and regulations of the Administrator and/or the Commission.

(b) Standards.

(1) A broker-dealer and his agents, in the conduct of his business, shall observe high standards of commercial honor and just and equitable principles of trade. A broker-dealer and his agents shall not violate any rule of a national securities exchange or national securities association of which it is a member with respect to any Client, transaction or business effected in this state.

* * *

(22) The following standards shall apply to supervisory procedures:

(A) Each broker-dealer shall establish, maintain and enforce written procedures which will enable it to supervise properly the activities of each registered agent and associated person to assure compliance with applicable securities laws, rules, regulations and statements of policy promulgated by the Administrator and/or the Commission under the Securities Act.

(B) Final responsibility for proper supervision shall rest with the broker-dealer, the principal(s) of the broker-dealer registered in accordance with 660:10-5-11, and the principal(s) of the broker-dealer in each OSJ, including the main office, and the registered representatives in each non-OSJ branch office designated by the broker-dealer to carry out the supervisory responsibilities assigned to that office by the broker-dealer pursuant to the rule and regulations of the NASD. . . .

Conclusions of Law

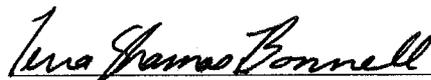
1. Brown made untrue statements of material fact in connection with the offer, sale, or purchase of securities, in violation of Section 101 of the Predecessor Act.
2. Brown omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, in connection with the offer, sale, or purchase of securities, in violation of Section 101 of the Predecessor Act.
3. Brown failed to observe high standards of commercial honor and just and equitable principles of trade in the conduct of his business, thereby engaging in unethical practices in the securities business in violation of 660:10-5-42 of the 1998 Oklahoma Rules.
4. Waddell & Reed failed to establish, maintain, and/or enforce written procedures that would enable it to properly supervise the activities of Brown to assure compliance with applicable securities laws, rules and regulations, in violation of 660:10-5-42 of the 1998 Oklahoma Rules.
5. Maloney failed to enforce Waddell & Reed's existing written supervisory procedures in connection with the activities of Brown to assure compliance with applicable securities laws, rules and regulations, in violation of 660:10-5-42 of the 1998 Oklahoma Rules.

To the extent any of these Conclusions of Law are more properly characterized as Findings of Fact, they should be so considered.

WHEREFORE, it is recommended that the Administrator issue a final order suspending Brown and Maloney from association with Waddell & Reed for ten (10) business days; censuring Waddell & Reed; imposing civil penalties against Brown and Maloney in the amount of Five Thousand Dollars (\$5,000) each; imposing a civil penalty against Waddell & Reed in the amount of Twenty Five Thousand Dollars (\$25,000); and imposing such other sanctions as appropriate and authorized by law.

Dated this 16th day of June, 2008.

Respectfully submitted,



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