FINANCIAL INDUSTRY REGULATORY AUTHORITY
OFFICE OF HEARING OFFICERS

DEPARTMENT OF ENFORCEMENT, COMPLAINANT, v. JOHN CARRIS INVESTMENTS, LLC (CRD NO. 145767), GEORGE CARRIS (CRD NO. 3079577), JOSEPH PRINCIPE (CRD NO. 1537357), ANDREY TKATCHENKO (CRD NO. 2712245), BRIAN SIMMONS (CRD NO. 4349344), JASON BARTER (CRD NO. 2552583), AND RANDY HECHLER (CRD NO. 2292597), RESPONDENTS.	DISCIPLINARY PROCEEDING NO. 2011028647101 HEARING OFFICER - MAD **AMENDED COMPLAINT**

The Department of Enforcement alleges:

SUMMARY

1. Beginning on or about January 2010, through the present (the "Relevant Period"), John Carris Investments, LLC and its founder, George Carris, engaged in a course of misconduct which included stock manipulation, fraudulent and unsuitable self-offerings of securities, operating a securities business without sufficient net capital, use of Firm funds to pay personal expenses of Firm principals, providing false tax documents to George Carris, and failing to remit payroll taxes withheld from employees to the government.

2. From on or about May 1, 2010 through September 30, 2010, (the "Manipulation Period"), John Carris Investments LLC, ("John Carris Investments" or the "Firm") its founder George Carris, and its head trader Jason Barter engaged in manipulative stock trading of Fibrocell Science, Inc. ("Fibrocell"), while John Carris Investments was acting as a placement agent for Fibrocell. Jason Barter and George Carris manipulated the price of Fibrocell by engaging in pre-arranged trading and improperly placing shares of Fibrocell stock in the accounts of John Carris Investments' customers, all in order to create the false appearance of trading volume and to maintain the share price at an artificial level. In so doing, George Carris, Jason Barter, and John Carris Investments willfully violated Securities Exchange Act of 1934 § 10(b), Rule 10b-5 thereunder, and FINRA Rules 2020 and 2010. (First Cause of Action)

3. From approximately October 2010 through at least September 2012, George Carris and John Carris Investments defrauded customers in connection with the sale of stock and notes in the Firm's parent company, Invictus Capital, Inc. ("Invictus Capital"). Notably, George Carris failed to disclose the poor financial condition of Invictus Capital and John Carris Investments, failed to disclose the personal use of the Firm's funds by George Carris, and misled investors regarding Invictus Capital's financial condition, by paying dividends to Invictus Capital's early investors with funds contributed by new investors in a Ponzi-like manner. Thus, George Carris and John Carris Investments willfully violated Securities Exchange Act of 1934 § 10(b), Rule 10b-5 thereunder, and FINRA Rules 2010 and 2020. (Second Cause of Action)

4. From May 3, 2013 through May 21, 2013 (the "Liquidation Period"), John Carris Investments failed to disclose a material adverse interest to customers of the Firm, namely that George Carris, and the Firm's Managing Director of Investment Banking, DB, were selling personally held shares of Fibrocell common stock while the Firm was soliciting its customers to buy shares of Fibrocell common stock. In so doing, John Carris Investments willfully violated Securities Exchange Act of 1934 § 10(b), Rule 10b-5 thereunder, and FINRA Rules 2020 and 2010. (Third Cause of Action)

5. In addition, George Carris, knowingly or at a minimum recklessly, provided substantial assistance to John Carris Investments in connection with the violations alleged in the Third Cause of Action, and thereby willfully aided and abetted John Carris Investments' willful violations of the Securities Exchange Act of 1934 § 10(b), Rule 10b-5 thereunder, and FINRA Rules 2020, in violation of FINRA Rules 2020 and 2010. (Fourth Cause of Action)

6. Moreover, registered representative Andrey Tkatchenko, George Carris and John Carris Investments recommended the purchase of Invictus stock and notes to customers during the ongoing offering despite having no reasonable basis for doing so, from October 2010 through the present (the "Offering Period"), as their customers could not reasonably expect economic gain from the investment. As of March 31, 2013, Invictus Capital was in default on $1.9M of Invictus Capital Notes that John Carris Investments had sold to its customers. John Carris Investments nonetheless continues to sell Invictus Preferred Stock to its customers. In so doing, Andrey Tkatchenko, George Carris, and John Carris Investments violated NASD Rule 2310 and FINRA Rule 2010 for

conduct occurring before July 9, 2012, and violated FINRA Rules 2111 and 2010 for conduct occurring after July 8, 2012. (Fifth Cause of Action)

7. In addition, from January 1, 2010 through December 31, 2011, George Carris and Joseph Principe caused the Firm to pay for George Carris' personal expenses while booking the payments as business expenses and therefore caused the Firm to maintain inaccurate books and records. Accordingly, George Carris, Joseph Principe, and John Carris Investments violated NASD Rule 3110(a) and FINRA Rule 2010 for conduct occurring before December 5, 2011, and FINRA Rules 4511 and 2010 for conduct occurring after December 4, 2011. In addition, John Carris Investments willfully violated Securities Exchange Act of 1934 § 17(a) and Rule 17a-3 thereunder. (Sixth Cause of Action)

8. George Carris also caused John Carris Investments to issue him a false Form W-2 for 2011, which understated the compensation he received, in violation of the standards of commercial honor and just and equitable principles of trade required by FINRA Rule 2010. (Seventh Cause of Action)

9. Moreover, from May 2010 through May 2011, George Carris, Brian Simmons, and John Carris Investments failed to establish and maintain supervisory procedures reasonably designed to achieve compliance with Anti-Money Laundering (AML) rules and regulations, and failed to monitor and detect suspicious activity in violation of FINRA Rules 3310 and 2010. (Eighth Cause of Action)

10. Further, from May 2009 through April 2012, George Carris, Brian Simmons, and John Carris Investments, and from December 2012 through May 2013, Randy Hechler and John Carris Investments, failed to establish, maintain, and enforce an

adequate supervisory system in violation of NASD Rule 3010 and FINRA Rule 2010. Specifically, from May 2009 through May 2012, the Firm, George Carris, and Simmons failed to prevent manipulative trading, fraudulent misrepresentations, suitability violations, books and records violations, net capital violations, and other violations described herein. From December 2012 through May 2013, the Firm and Randy Hechler failed to prevent fraudulent omissions. (Ninth Cause of Action)

11. Moreover, for several periods between November 1, 2011 and August 6, 2012, including one span of four months, George Carris caused the Firm to operate without sufficient net capital, in violation of FINRA Rule 2010. In addition, John Carris Investments operated without sufficient net capital during that same period, and thereby willfully violated Securities Exchange Act of 1934 § 15, Rule 15c-3, *et seq*. thereunder. (Tenth Cause of Action)

12. In addition, from May 2010 through at least December 2012, George Carris and John Carris Investments failed to remit to the United States Treasury hundreds of thousands of dollars in employee payroll taxes after representing to their employees that those funds had been withheld from their paychecks for payroll tax payments, in violation of FINRA Rule 2010. (Eleventh Cause of Action)

RESPONDENTS AND JURISDICTION

13. Respondent John Carris Investments LLC (CRD No. 145767) is a registered broker-dealer with its principal place of business in the city and state of New York. From November 9, 2007 to July 6, 2009, John Carris Investments was known as "Archey & Co. LLC." On or around May 19, 2009, George Carris purchased Archey & Co.

LLC and subsequently changed the name of the Firm to John Carris Investments LLC. As of December 2012, the Firm employed 48 registered representatives at a single branch located at 40 Wall Street, New York, New York.

14. During June 2009, George Carris incorporated Invictus Capital, and transferred ownership of John Carris Investments to Invictus Capital's wholly owned subsidiary, Invictus Capital, LLC. During the Relevant Period, George Carris was the controlling shareholder for Invictus Capital.

15. Respondent George Carris (CRD No. 3079577) first became registered in the securities industry as a General Securities Representative on July 22, 1998. From May 2009 until the date of the Complaint, George Carris has been registered with John Carris Investments as a registered representative and as a principal. From May 2009 until the date of the Complaint, George Carris has been the Firm's Chief Executive Officer and Chief Operating Officer. From May 2009 until October 2010, George Carris was also the Firm's Chief Compliance Officer. From May 2009 until October 2012, George Carris was President of the Firm.

16. Respondent Joseph Principe ("Principe") (CRD No. 1537357) first became registered in the securities industry as a General Securities Representative with a FINRA member firm in July of 1986. From September 2010 until the date of the Complaint, Principe has been registered with John Carris Investments as a registered representative. On September 2, 2011, Principe became a "senior managing director" of the Firm. During the period from October 5, 2012 to February 11, 2013, Principe was the Firm's Chief Compliance Officer. From October 5, 2012 to December 14,

2012, Principe was designated as the Firm's municipal principal and options principal.

17. Respondent Jason Barter ("Barter") (CRD No. 2552583) first became registered in the securities industry as a General Securities Representative with a FINRA member firm in June 1995. Barter first became registered with John Carris Investments in July 2009. From August 2009 to April 2011, Barter was a General Securities Principal. Throughout the Relevant Period, Barter was the Firm's sole trader.

18. Respondent Brian Simmons ("Simmons") (CRD No. 4349344) first became registered in the securities industry as a General Securities Representative with a FINRA member firm in July 2002. From August 2010 until September 14, 2012, Simmons was registered with John Carris Investments as Chief Compliance Officer. Simmons also served as the Firm's Anti-Money Laundering Compliance Officer from August 2010 until September 2012. Simmons voluntarily terminated his association with the Firm on or about September 14, 2012, and his Form U-5 was filed as of September 26, 2012.

19. Although Respondent Simmons is no longer registered or associated with a FINRA member, he remains subject to FINRA's jurisdiction for purposes of this proceeding, pursuant to Article V, Section 4 of FINRA's By-Laws, because (1) the Complaint was filed within two years after the effective date of termination of Respondent's registration with John Carris Investments, and (2) the Complaint charges him with misconduct that he engaged in while he was registered or associated with a FINRA member.

20. Respondent Andrey Tkatchenko ("Tkatchenko") (CRD # 2712245) first became registered in the securities industry as a General Securities Representative with a FINRA member firm in February 1996. From October 2010 through the date of the Complaint, Tkatchenko was registered with John Carris Investments as a General Securities Representative. Tkatchenko engaged in the buying and selling of securities for customer accounts, primarily penny stocks.

21. Respondent Randy Hechler ("Hechler") (CRD No. 2292597) first became registered in the securities industry as a General Securities Representative with a FINRA member firm on January 25, 1993. From December 2012 through the date of this Amended Complaint, Randy Hechler was registered with John Carris Investments as the Firm's Chief Compliance Officer.

22. Respondents John Carris Investments, George Carris, Principe, Barter, Tkatchenko, and Hechler are currently employed in the securities industry in a registered capacity and are therefore subject to FINRA's jurisdiction pursuant to FINRA By-Laws Article IV, Section 1 (for the Firm), and Article V, Section 2 (for the individual Respondents).

FACTS

Fibrocell Science Inc. Stock

23. Fibrocell Science, Inc. (ticker symbol FCSC) is a biotech company focused on the development of various products for aesthetic, medical and scientific applications. Fibrocell is publicly traded on the Over-the-Counter Bulletin Board system.

24. Starting on or about September 24, 2009, John Carris Investments acted as a

placement agent for nine Fibrocell Offerings. As compensation for acting as placement agent, the Firm was entitled to receive a commission for each sale of Fibrocell, plus an expense allowance and grants of warrants to purchase shares of Fibrocell common stock at a predetermined exercise price of between $.50 and $1.30, depending on the specific Fibrocell Offering (the "Fibrocell Warrants").

25. From on or about August 6, 2009 through June 7, 2012, John Carris Investments received $3,405,391 of revenue in connection with Fibrocell Offerings. This represented the largest single source of John Carris Investments' revenue, apart from the Invictus Capital Self Offerings discussed below.

26. Collectively, George Carris, Barter, and Tkatchenko, received millions of warrants in connection with Fibrocell placements. In connection with the Fibrocell Offerings during October 2009, July through November of 2010, and March 2012:

   a. George Carris received over 1.2 million Fibrocell Warrants;
   b. Barter received over 40,000 Fibrocell Warrants; and
   c. Tkatchenko received over 150,000 Fibrocell Warrants.

27. Apart from the Fibrocell Offerings, John Carris Investments and its customers were also active in the Over-The-Counter market for Fibrocell stock. From May 11, 2010 through September 21, 2010, the Firm's activity accounted for 80% or more of the total market volume in Fibrocell stock on 38 days during this four month period.

<u>The Invictus Capital Inc. Self-Offerings</u>

28. In order to fund John Carris Investments, George Carris sought financing through self-offerings of Invictus Capital from October 2010 through the present (the "Offering Period"), namely the Series A Offering, the Series B Offering, Bridge

Offering, Series C Offering and Second Series C Offering discussed *infra* (collectively, the "Self-Offerings"). Invictus Capital engaged in no business other than to raise capital for John Carris Investments through the Self-Offerings.

29. John Carris Investments acted as the exclusive agent for the Self-Offerings, which offered and sold unregistered shares and promissory notes of its parent company Invictus Capital. No other brokerages placed their customers in Invictus Capital securities. John Carris Investments' brokers were entitled to receive 10% commissions on placements of the Self-Offerings.

30. The Self-Offerings have raised in excess of $7,000,000.

31. During the Offering Period, George Carris was the sole director and executive officer of Invictus Capital.

32. Although at all times during the Offering Period John Carris Investments was located at offices on Wall Street, the Series A Offering documents indicated that Invictus Capital was located at George Carris' personal residence. At all times during the Offering Period, George Carris was the owner of at least 80% of the shares of issued and outstanding common stock of Invictus Capital.

33. In connection with each of the Series A, Series B, and Series C offerings, George Carris and Invictus Capital offered to pay a quarterly dividend, up to a set percentage of an investor's principal investment, at the discretion of Invictus Capital's Board of Directors (the "Quarterly Dividend"). During the Offering Period, George Carris was the only director of Invictus Capital, and thus he exercised sole discretion over whether to pay Quarterly Dividends.

34. In connection with the Series A, Series B, and Series C offerings, George Carris and Invictus Capital also offered profit sharing in John Carris Investments through a discretionary dividend (the "Warrant Share"). If John Carris Investments earned warrants through its investment banking activity and exercised the warrants at a profit, investors could receive a portion of the profit allocated to Invictus Capital.

35. George Carris and Invictus Capital purported to offer the Series A Offering and Series B Offering pursuant to the exemption provided by Section 4(2) of the 1933 Act and Rule 506 of Regulation D. However, no Form D was filed with the SEC for those offerings, even though this filing was required.

36. During the Self-Offerings, George Carris caused Invictus Capital to pay dividends to earlier investors from the funds received from new investors, in a Ponzi-like manner.

The Series A Offering

37. On or about June 11, 2009, George Carris caused to be prepared a Private Placement Memorandum (the "Series A Memorandum") that offered for sale Series A shares of preferred stock of Invictus Capital (the "Series A Offering").

38. The Series A Offering resulted in Invictus Capital issuing 32,919 preferred shares to approximately 16 investors, and raised $822,975 in gross sales proceeds for Invictus Capital.

39. Preferred shares sold in connection with the Series A Offering were priced at $25 per share and were eligible to receive a Quarterly Dividend of 1% (4% annual), at the sole discretion of George Carris. Series A preferred shareholders were also eligible for the Warrant Share.

40. Unlike subsequent Self-Offerings, the Series A Offering contained a put option that permitted Series A investors to redeem their shares at face value six months from the date of their investment.

41. In the event that Invictus Capital became a public corporation or began being traded on a public exchange, preferred shares sold through the Series A Offering automatically converted to common shares at a rate of one common share per one preferred share.

42. In the Series A Memorandum section titled “Security Ownership of Certain Beneficial Owners and Management,” George Carris was listed as the Sole Executive Officer and Director and attributed with owning 800,000 shares of common stock. The Series A Memorandum states that if the Series A offering is fully sold and the Series A investors fully convert their Series A preferred stock into shares of common stock, George Carris will own 80% of the 1,000,000 common shares then outstanding. In subsequent Self-Offerings, the percentage of common stock held by George Carris relative to other investors consistently increased.

43. The “Risk Factors” section of the Series A Memorandum stated: “We have incurred and may continue to incur losses and our business will have no revenue unless and until operations commence” and “our business is difficult to evaluate because we have no operating history.” However, the first John Carris Investments customer purchased shares through the Series A Offering in October 2010, when the Firm had been in operation for over one year.

44. Nonetheless, the Series A Memorandum did not contain any financial statements for Invictus Capital or John Carris Investments.

45. The "Use of Proceeds" section of the Series A Memorandum specified that proceeds of that offering would be used for "working capital and other general corporate expenses." The Series A Memorandum further stated that the Firm would use the proceeds earned in connection with the offering in the following approximate percentages: 40% to "Employee and Consultant Salaries and Fees," 10% to "Lease of Office Space," 30% to "Equipment," 10% to "Working Capital," and 10% to "Commissions." Neither payments to earlier investors nor personal expenses of Firm principals were included within the description of the expected uses of Series A Offering proceeds.

The Series B Offering

46. On or about January 24, 2011, George Carris caused to be prepared a second Private Placement Memorandum (the "Series B Memorandum") that offered for sale Series B shares of up to $5,000,000 of preferred stock of Invictus Capital (the "Series B Offering").

47. The Series B Offering resulted in Invictus Capital selling 134,580 preferred shares to at least 43 investors, and raised $3,364,500 in gross sales proceeds for Invictus Capital.

48. Preferred shares sold in connection with the Series B Offering were priced at $25 per share and Series B Offering shareholders were eligible to receive a Quarterly Dividend of 1% (4% annual) at the sole discretion of George Carris. Series B preferred shareholders were also eligible for the Warrant Share.

49. In the event that Invictus Capital became a public corporation or began being traded on a public exchange, preferred shares sold through the Series B Offering would automatically convert to common shares at a rate of .125 common shares per preferred share.

50. Three days prior to the issuance of the Series B Offering in January 2011, George Carris received an option to purchase 400,000 shares of common stock of Invictus Capital at a price of $0.01 per share.

51. In the Series B Memorandum section titled "Security Ownership of Certain Beneficial Owners and Management," George Carris was listed as the Sole Executive Officer and Director and attributed with owning 1,200,000 shares of common stock. The Series B Memorandum states that if the Series B Offering is fully sold and the Series A Offering and Series B Offering investors fully convert their preferred stock into shares of common stock, George Carris will own 95.5%, of the 1,255,919 common shares then outstanding. In addition, the "Risk Factors" section of the Series B Memorandum stated: "We have incurred and may continue to incur losses and our business will have no revenue unless and until operations commence" and "our business is difficult to evaluate because we have no operating history." However, by the date of the Series B Memorandum in January 2011, the Firm had been in operation for over one and a half years.

52. Nonetheless, the Series B Memorandum did not contain any financial statements or summaries of profits and losses for Invictus Capital or related information of either Invictus Capital or John Carris Investments.

53. The "Use of Proceeds" section of the Series B Memorandum specified that proceeds of that offering would be used for "working capital and other general corporate expenses associated with maintaining and attempting to grow the business of the Broker/Dealer …." The Series B Memorandum further stated that the Firm would use the proceeds earned in connection with the offering in the following way: 40% to "Employee and Consultant Salaries and Fees," 10% to "Lease of Office Space," 30% to "Equipment," 10% to "Working Capital," and 10% to "Commissions." Neither dividend payments to earlier investors nor personal expenses of Firm principals were included within the description of the expected uses of Series B Offering proceeds.

The Bridge Offering

54. On or about December 1, 2011, George Carris caused to be prepared subscription documents (the "Bridge Subscription Documents") that offered for sale shares of up to $2,000,000 of 9% convertible promissory notes of Invictus Capital (the "Bridge Offering").

55. According to the Bridge Subscription Documents, each note matured one year following the date of issuance, at which point, Invictus Capital was to pay the investor "the sum of (i) the product of (a) the principal amount of the Note then outstanding, multiplied by (b) 120% plus (ii) all accrued but unpaid interest due on the maturity date."

56. However, according to the terms of the Bridge Offering, all outstanding principal and accrued interest amounts from that offering converted mandatorily and automatically into preferred shares of Invictus Capital, at the placement offering price of the *next*

preferred stock offering, provided that the next offering raised in excess of $5,000,000 in aggregate gross proceeds.

57. The relevant terms of the next offering (the Series C Offering) were not disclosed in the Bridge Subscription Documents.

58. The "Use of Proceeds" section of the Bridge Subscription Documents state that the proceeds will be used "primarily for additional working capital and other general corporate expenses associated with maintaining and attempting to grow the business of the Broker/Dealer, which may include, but not be limited to, up front loans and/or payments to registered representatives as an inducement to join the Broker/Dealer, the purchase of technology and equipment for communications, the hiring of support and other personnel to support the proposed growth of the Broker/Dealer as well as for the infrastructure build-out." Neither dividend payments to investors from prior offerings nor personal expenses of Firm principals were included within the description of expected uses of Bridge Offering proceeds.

59. The "Use of Proceeds" section of the Bridge Subscription Documents further stated that "[t]he company believes that the net proceeds from the sale of all $2,000,000 of Notes in the Offering should allow the Company to continue in operation for approximately 13 months based upon the company's estimates." The Bridge offering was fully subscribed. Nevertheless, Invictus Capital commenced a new private offering immediately after the Bridge Offering had closed, less than four months from the opening of the offering. During the open Bridge Offering John Carris Investment was out of net capital compliance for several months, and thus should not have been in operation.

60. The Bridge Subscription Documents included audited financial statements for John Carris Investments for the 12-month period ending December 31, 2010, a period that ended approximately one year prior to the opening of that offering.

61. The Bridge Subscription Documents failed to include financial statements or summaries of profits and losses for Invictus Capital.

62. Ultimately, John Carris Investments sold all $2,000,000 of Invictus Capital Bridge Notes to approximately 27 investors.

The Series C Offering

63. On or about March 9, 2012, George Carris caused to be prepared subscription documents (the "Series C Subscription Documents") that offered for sale Series C preferred shares of up to $10,500,000 of preferred stock, plus a $2,500,000 oversubscription option, of Invictus Capital (the "Series C Offering").

64. Preferred shares sold in connection with the Series C Offering were priced at $25 per share. Series C Offering shareholders were eligible to receive a Quarterly Dividend of 2.25% (9% annual). In addition, they were eligible for the Warrant Share.

65. In the event that Invictus Capital became a public corporation or became traded on a public exchange, preferred shares sold through the Series C Offering would automatically convert to common shares at a rate of .125 common shares per preferred share.

66. The "Use of Proceeds" section of the Series C Subscription Documents specifies that the proceeds will be used "primarily for additional working capital and other general corporate expenses associated with maintaining and attempting to grow the business

of the broker dealer, which may include, but not be limited to, up front loans and/or payments to registered representatives as an inducement to join the Broker/Dealer, the purchase of technology and equipment for communications, the hiring of support and other personnel to support the proposed growth of the Broker/Dealer as well as for the infrastructure build-out." The Series C Subscription Documents did not disclose that the company required new funds on a monthly basis to remain in net capital compliance and to sustain operations.

67. The "Use of Proceeds" section of the Series C Subscription Documents also provided that "[i]n addition, the Company may use net proceeds of the Offering in full or in part to redeem and/or pay dividends on the its (sic) Series A Preferred Stock (the "A Shares") and/or its Series B Preferred Stock (the "B Shares") and/or repay outstanding principal and accrued but unpaid interest on its 9% Convertible Promissory Notes (the "Bridge Notes") in all such amounts, if any, as so determined by the Company in its sole discretion." The "Use of Proceeds" section did not disclose that proceeds could be used to pay personal expenses of the Firm principals.

68. The Series C Subscription Documents included "Certain Management Prepared, Unaudited Financial Statements" of John Carris Investments for the 12-month period ending December 31, 2011. This consisted of a single page balance sheet and a single page "Profit and Loss Statement."

69. The Series C Subscription Documents did not include financial statements of Invictus Capital. In addition, the Series C Subscription Documents did not disclose that the Firm was not able to maintain its required level of net capital unless it received

ongoing contributions from Invictus Capital that Invictus Capital obtained through the Self-Offerings.

70. Ultimately, from March 2012 through March 2013, the Company sold 152,820 shares in the Series C Offering, having a stated value of $3,820,500.

<u>The Second Series C Offering</u>

71. The Firm submitted to FINRA Subscription Documents dated April 3, 2013 ("Second Series C Subscription Documents") for a new offering of Series C Preferred Shares (the "Second Series C Offering"). This Offering is ongoing at the time of the Amended Complaint.

72. The "Use of Proceeds" of the Second Series C Subscription Documents states the following:

> The Company and the Broker/Dealer as of March 31, 2013 have $662,579 of cash and cash equivalents. Moreover, as of March 31, 2013, *$1,960,000 principal amount of Bridge Notes was in default as each of such Bridge Notes have matured and not been repaid.* As a result, commencing upon the applicable maturity date of each outstanding Bridge Note and ending on the date that each outstanding Bridge Note is repaid, the outstanding Bridge Notes bear interest at the rate of 11%. *The Company does not have funds to repay such Bridge Notes*. As a result, the Company may be required to use the net proceeds from this Offering to repay such Bridge Notes. Further, the Company and the Broker/Dealer are dependent upon the net proceeds of this Offering to continue operations. (emphasis added).

73. The Second Series C Subscription Documents further state that Invictus Capital needs to sell $1,182,600 of the Second Series C Offering, in order to mandatorily convert the defaulted Bridge Notes into Series C shares. The documents further state that Invictus Capital expects to use a "substantial amount" of the proceeds to respond to

regulatory matters, including the FINRA investigation relating to this complaint, and to use the remainder of the proceeds for growth of the business or to redeem or pay dividends to earlier Invictus Capital investors.

74. The shares offered in the Second Series C Offering are priced at $25 per share, and have a conversion rate equal to one share of Common Stock for every $200.00 of Stated Value of Series C Preferred shares so converted.

Personal Expenses Charged To The Firm

75. From in or around April of 2009 through the date of this Complaint, John Carris Investments operated as a single-member limited liability company whose sole member was Invictus Capital LLC. Invictus Capital LLC was also a single-member limited liability company whose sole member was Invictus Capital, Inc. From April of 2009 through at least December 31, 2011, George Carris did not hold any direct ownership interest in John Carris Investments.

76. John Carris Investments issued George Carris a corporate credit card for which balances were regularly paid from bank accounts held by the Firm. The Firm also issued George Carris a corporate debit card that drew upon bank accounts held by the Firm.

77. George Carris used the Firm-issued credit card and debit card to make purchases that were personal in nature and that were not legitimate business expenses of the Firm. After George Carris charged personal expenses using a Firm-issued card, he caused the Firm to record his personal expenditures within its books and records as though the personal expenditures were legitimate business expenses. George Carris knew

that these expenses were personal in nature, and not legitimate business expenses of the Firm.

78. George Carris also used his Firm-issued debit card to withdraw funds through ATM machines directly from John Carris Investments' bank account, and to make point-of-sale purchases that debited funds directly from the Firm's bank account.

79. As Managing Principal, Principe was responsible for reviewing and approving some of the Firm's business expenses, including Travel Expenses and Entertainment.

80. Between January 1, 2010 and December 31, 2011, the Firm paid over $590,000 of expenses that were personal expenses of George Carris. Contemporaneously with the time they were incurred, these expenses were classified as business expenses. However, after the commencement of the FINRA investigation relating to this complaint, $590,000 of these expenses were reclassified by the Firm to "member distributions," "partner draw" or "owners draw." See Schedule A. Included among the expenses reclassified to "member distributions," "partner draw," or "owners draw," were the following:

   a. $385,076 of personal expenses classified as Office Expenses. These expenses included $262,154 described only as "cash," $36,211 for ATM withdrawals, debit card point-of-purchase transactions, and checks written to cash, and $10,622 for George Carris' condominium association expenses.

   b. $54,629 of personal expenses classified as Business Gifts. These expenses included $10,554 for purchases at a tattoo parlor, $5,987 for pet care, and

$5,317 for motorcycle expenses. The Firm reclassified all of the expenses it had classified as Business Gifts during 2010 and 2011.

c. $39,041 of personal expenses classified as Entertainment. These expenses included $15,204 for New York City restaurant charges, $6,790 for firearms-related expenses, $4,853 for supermarket purchases, and $3,226 for purchases at alcohol retailers.

d. $37,134 of personal expenses classified as Travel Expenses. These expenses included $16,719 for motor vehicle and motorcycle expenses, and $1,151 for expenses at ski resorts.

e. $18,321 of personal expenses classified as Office Supplies. These expenses included $8,629 for purchases at Pottery Barn, and $6,180 described only as "cash."

f. $17,357 of personal expenses classified as Uniform Expenses. These expenses included $7,238 for purchases at clothing retailers, $5,473 for dry cleaning services, and $4,629 described only as "blank."

g. $14,065 of personal expenses classified as Employee Gifts. These expenses included purchases at Louis Vuitton and a tattoo parlor.

h. $10,313 of personal expenses classified as Automobile Expenses. The entire amount of personal expenses categorized as Automobile Expenses was motor vehicle and motorcycle expenses.

i. $8,490 of personal expenses classified as Education. The entire amount of personal expenses categorized as Education was described only as "cash."

j. $4,468 of personal expenses classified as Dues & Subscriptions. The entire amount of personal expenses categorized as Dues & Subscription was for health club membership fees.

k. $1,445 of personal expenses classified as Insurance. These expenses included $177 for purchases at a clothing retailer.

81. Moreover, after the commencement of FINRA's investigation, the Firm also reclassified as "Officer Compensation" over $600,000 of other personal expenses that George Carris charged to the Firm between May 2009 and May 2012. See Schedule B. These expenses included those incurred at a pet care establishment and a home goods retail store. However the Firm did not issue any Forms W-2 to George Carris for tax years 2009 and 2010, and the Firm-issued Form W-2 for 2011 reported only $150,416 in wages, tips and other compensation. These expenses were not reimbursed to the Firm.

FIRST CAUSE OF ACTION

Willful Stock Market Manipulation
Violation of Securities and Exchange Act of 1934 § 10(b), Rule 10b-5 thereunder; FINRA Rules 2020 and 2010
(Respondents George Carris, Jason Barter, and John Carris Investments)

82. The Department realleges and incorporates by reference paragraphs 1-81 above.

83. Section 10(b) of the Securities Exchange Act of 1934, Rule 10b-5 thereunder, and Securities Act of 1933 § 17(a) (the antifraud rules) collectively proscribe fraudulent conduct in connection with the purchase or sale of securities. FINRA Rule 2020 provides that "[n]o member shall effect any transaction in, or induce the purchase or

sale of, any security by means of any manipulative, deceptive or other fraudulent device or contrivance."

84. Collectively, George Carris, Barter, and John Carris Investments (the "Manipulation Respondents") violated these rules by manipulating the price of Fibrocell stock between May 1, 2010 and September 30, 2010 (the "Manipulation Period").

<u>The Manipulative Scheme</u>

85. Throughout the Manipulation Period, during and prior to the offering of Fibrocell that began on or about July 16, 2010 and ended on or about November 17, 2010 (the "November Offering"), George Carris, Barter and John Carris Investments engaged in a manipulative scheme of intentional prearranged trading to manipulate the price and volume of Fibrocell securities in the over-the-counter market.

86. This scheme was motivated by the Manipulation Respondents' interest in increasing the volume and price of sales of Fibrocell shares, including in ongoing Private Placements of Public Equity ("PIPEs") for which John Carris Investments acted as a placement agent. From these placements, the Manipulation Respondents earned commissions ranging from 7-10% and Fibrocell warrants— from which respondents could profit by cashless exercise.

87. Fibrocell was a vital investment banking customer for John Carris Investments. During the Manipulation Period, John Carris Investments engaged in a placement of convertible preferred stock and warrants issued on behalf of Fibrocell in connection with the November Offering. In connection with this offering, the Firm made

$354,300 in commissions and earned placement agent warrants for shares of Fibrocell.

88. Earlier that year, John Carris Investments acted as a placement agent for a March 2010 private offering of Fibrocell at a price of $0.75. In connection with this offering, the Firm obtained $304,600 in commissions and earned additional placement agent warrants for shares of Fibrocell.

89. The previous year, John Carris Investments acted as a placement agent for an offering of Fibrocell stock during October 2009 and provided Bankruptcy Debtor-in-Possession and Exit Financing to Fibrocell, then known as Isologen, Inc., during June and September 2009.

90. By engaging in prearranged trading during the Manipulation Period, between May 1, 2010 and September 30, 2010, the Respondents created volume and also gave the appearance of greater liquidity, manipulated the price by which the shares were bought and sold, and prevented large sales of blocks of shares from being sold into the market (which would depress the stock price). This prevented the price and volume from accurately reflecting market activity prior to and during the November Offering.

91. The trading data indicates a regular pattern of pairing Firm customer sales of Fibrocell with purchases of Fibrocell by other Firm customers. During these efforts, it was rare for the Firm to facilitate any Firm customer sales of Fibrocell without having Firm customers buy on the same day.

92. The volume and pricing from the Firm's customer buy and sell transactions in the secondary market of Fibrocell were disseminated to the market place and contributed

to the overall public volume and price reporting. During the Manipulation Period, the Firm dominated trading in Fibrocell. The most active John Carris Investments Registered Representative trading in Fibrocell during this period was George Carris.

93. Between May 2010 and September 2010, John Carris Investments was responsible for approximately 72% of the total market volume. This includes 48 days where the firm accounted for 50% or more of the total trading volume and 26 days where the firm accounted for 90% or more of the total trading volume.

Month Date	Closing Price on First Day of Month	Closing Price on Last Day of Month	Total Market Volume	Total Shares John Carris Investments Traded and Reported	% John Carris Investments Shares Traded vs Total Market Volume	# of Days where John Carris Investments Traded Volume was 50% or Greater of Total Market Volume	# of Days where John Carris Investments Traded Volume was 90% or Greater of Total Market Volume	# of Days John Carris Investments Customers traded	# of Days John Carris Investments Customers Bought and Sold on Same Day	Total Shares John Carris Investments Customer Sold	Total Shares John Carris Investments Customer Bought	% John Carris Investments Shares Customer Bought vs. Total Market Volume
May-10	0.7	0.9	2,045,400	1,043,606	51%	9		16	10	537,771	720,435	35%
Jun-10	0.9	0.8	936,500	682,850	73%	7	5	14	7	330,150	418,200	45%
Jul-10	0.8	0.7	357,100	276,600	77%	10	4	13	7	173,400	196,100	55%
Aug-10	0.75	0.74	2,904,400	2,356,899	81%	14	12	17	16	1,284,495	1,286,895	44%
Sep-10	0.7	0.55	1,365,200	1,155,155	85%	8	5	15	10	706,803	567,052	42%
Oct-10	0.55	0.5	525,300		0%					0	0	0%
Nov-10	0.46	0.45	2,210,400	380,724	17%	3		8	1	379,249	118,924	5%

94. The buying activity by Firm customers helped to counteract the downward price pressure provided by selling activity by Firm customers that was occurring around the same time.

95. During August 2010, the Firm's customers sold approximately 1.3 million shares, which totaled more than all Firm customers sold in the prior three months. For 16 out of the 17 days on which customers sold, the Firm facilitated customer buys totaling approximately 1.3 million shares. The amount bought by Firm customers accounted

for approximately 44% of the total market volume and provided substantial price support in the midst of the sales. Despite the significant selling during this month, the closing price went from $0.75 on the first day of the month to only $0.74 on the last day of the month, representing a change of just over 1%.

96. John Carris Investments has continued to actively buy and sell Fibrocell in the secondary market and in various private offerings at several times from 2010 through the present. From 2011 through the present, John Carris Investments has been involved in facilitating at least five private offerings of Fibrocell. On 207 days from January 2011 through May 14, 2013, John Carris Investments facilitated both buys and sells of Fibrocell shares during the same day.

Prearranged Trades Involving Price Increases

97. In some instances, the Manipulation Respondents engaged in trading large blocks of shares at prices above market. For example, on July 27, 2010, George Carris directed a matched trade as a buy by customer TM and a sell by customer VP of 72,450 shares. This was priced at $.785 while the stock had traded earlier at $.73-.74. The next buy in the market was reported at $.75.

98. On July 29, 2010, George Carris directed a matched trade as a buy by customer RS and a sell by customer DE of 30,000 shares. That day, the Firm had received a notice from its clearing firm demanding that a purchase of 30,000 shares in customer DE's account be sold out because there were not enough funds in the account for the purchase. The sell side of this trade was priced at $0.805 and the buy side was priced at $0.81, while the preceding trade was priced at $0.73. The matched buy side transaction at $0.81 was also the closing price for the day. The next sell in the market

was reported the following day at $.80. This July 29, 2010 trading by George Carris represented approximately 88% of the total market volume. Later, on August 6, 2010, the clearing firm directed the Firm to sell out a purchase of 30,000 shares from customer RS's account because there were not enough funds in the account for the purchase.

99. After effecting the July 29, 2010 matched trades, the Manipulation Respondents continued to support the price of Fibrocell shares. On the following day, July 30, 2010, George Carris directed a matched trade as a buy by customer AR and a sell by customer NM of 4,000 shares. This was priced at $.795-.8.

100. On August 3, 2010 the Firm's trading activity accounted for 100% of the daily trading volume. After the Firm reported a matched trade of 6,000 shares at $0.77 and another trade of 1,000 shares at the same price, George Carris arranged a large block matched trade at increased prices. DE sold 133,000 shares at $.778 and within seconds KC bought 133,000 shares at $.78, which represented the closing price for the day.

<u>Prearranged Trades Involving Unfunded Purchases</u>

101. Also as part of the manipulative scheme, George Carris directed purchases of Fibrocell stock in his customer accounts that held insufficient funds to satisfy the purchase. Consequently, after a specified time period, the Firm's clearing firm ordered the Firm to sell the shares in the open market. When this occurred, George Carris would set up a prearranged trade to direct that another Firm customer purchase that precise number of shares at a precise price from the underfunded customer.

102. Often the secondary purchase was made on behalf of a customer whose account was also insufficiently funded and the pattern was repeated. This prearranged trading activity was all marked "unsolicited," generally did not result in the charging of a commission, and did not have any legitimate business purpose.

103. From July 2010 through September 2010, the Manipulation Respondents moved a block of 133,000 Fibrocell shares back-and-forth between its error account and a number of customer accounts.

104. On July 12, 2010, the clearing firm sent the Firm an email instructing it to sell 45,000 shares out of JC's account as unfunded. In the same email, the clearing firm instructed John Carris Investments to sell an unfunded purchase of 160,450 shares of Fibrocell out of customer JK's account. These two sales totaled 205,450 shares.

105. Within minutes, John Carris Investments placed unsolicited buy orders for two other customers, which totaled 205,450 shares, VP for 72,450 shares and DE for 133,000 shares. These two block purchases of previously unfunded purchases were not reported to the market. The Firm only reported to the market a purchase of 1,200 shares placed by another broker.

106. Both the Fibrocell purchases for that day -- VP for 72,450 shares and DE for 133,000 shares -- were later sold out as unfunded, after the Firm received directions from the clearing firm.

107. The block of 133,000 shares from DE's July 12, 2010 purchase continued to be "bought" and "sold" among the Manipulation Respondent's customers and the Firm's accounts until September 2010.

108. The 133,000 shares were moved back and forth between DE and John Carris Investment's error account and proprietary trading account on July 13th, 23rd, and 29th of 2010, as the clearing firm demanded that the Respondents sell out the unfunded purchases. While the Firm was conducting trading of the underfunded large block trades described above, the Firm was engaging in a private placement offering. If the large share blocks were sold into the market, those sales could have negatively affected the success of the private placement.

109. On August 11, 2010, the clearing firm again sent a sellout instruction to John Carris Investments for the unfunded buy of 133,000 shares in customer KC's account. In the next matched trade of these shares reported to the market, George Carris customer AO bought and George Carris customer KC sold 133,000 shares on August 11, 2010 at $.75 and $.747 respectively. This buy and sell represented 100% of the market volume on that day for a total volume of 266,000.

110. On August 19, 2010, the clearing firm informed John Carris Investments that AO's "buy" was unfunded, and required that John Carris Investments sell out the shares from AO's account. John Carris sold the shares and bought them into the John Carris Investments error account. This was reported to the market along with an additional 3,000 shares purchased. The Firm's trades represented 96% of the daily trading volume.

111. The clearing firm identified this trade as erroneous and, on August 24, 2010, the clearing firm sent John Carris Investments a trade break notice for the buy of 133,000. Because John Carris Investments had not taken action, the clearing firm booked the trade to the Firm's error account that day.

112. In one notable trade, on August 25, 2010, the clearing firm directed the Firm to sell out its error account position by 1 pm. John Carris Investments then sold 133,000 shares into the market and immediately bought them back at a price of $.738. This was a substantial jump in price from the prior reported trading on August 24th of $.55-.58. At the time of that trade, the $.738 price had not been reached since August 18, when another matched trade was placed by the Firm for 109,900 shares at that price.

113. The two August 25, 2010 trades described above represent 99% of the market's volume for that day. The following day, the clearing firm requested an explanation for why the 133,000 shares had been "booked back in with an 8/25 as of date."

114. John Carris Investments then placed the shares purchased on August 25, 2010 in customer SQ's account on August 30, 2010, a purchase which was also unfunded.

115. On September 2, 2010, the clearing firm sent two emails instructing John Carris Investments to sell out 133,000 shares from customer SQ's account as money had not been received. SQ's shares were "bought" by the Firm's proprietary trading account, which had just been opened, but this activity was not reported to the market.

116. The following day, on September 3, 2010, the clearing firm sent an email as a follow-up to its instruction the day before to sell out the 133,000 in SQ's account: "Why wasn't this sold out yesterday? I know you canceled the trade to your err a/c but did not sell? This is a BIG regt violation by putting the buy back to the client and not have a sale from 9/2 ----- so to avoid this in the future, if the trade is cxl'd to your err a/c, the shares must be sold out of your err a/c that day and if we do not see the sale

by 2:00 CT ---- [The clearing firm] will be selling out @ the mkt. You cannot hold shares w/out $$ and the client MUST be sold out per REGT rules."

117. John Carris Investments replied that "It was cancelled in error not sold, the print had to go to street today, will adjust the dates so there is no violation" and "It was a miscommunication. Won't happen again."

118. Yet, from July 16, 2010 through August 18, 2010, the Respondents had engaged in similar trading activity for a block of 85,900 Fibrocell shares. The Firm bought and sold those shares in and out of customers' accounts for over a month, prearranging unfunded purchases by other customers when directed to sell out. On the three days that the Firm reported these prearranged trades to the market, this trading constituted between 83% and 100% of the total market volume of trading in Fibrocell on each of those days.

119. First, the Firm account "sold" 85,900 shares to VP, which was not reported to the market. Then, on August 2, 2010, the clearing firm sent instructions to sell out that unfunded purchase into VP's account. George Carris created a matched trade, reported to the market, in which VP sold 85,900 shares to KC. The Firm's activity accounted for 83% of the market's total volume, largely caused by the 85,900 transaction.

120. On August 10, the clearing firm sent instructions to the Firm to sell out that unfunded purchase into KC's account. On August 10th, George Carris sold the 85,900 shares out of the KC account at $0.74 and into the AO account, just seconds later, in a matched trade, reported to the market at $0.75, which represented the closing price. The Firm's activity accounted for 99% of the market's volume that day.

121. On August 18, the clearing firm sent a sell-out instruction to the Firm for the AO shares. The same day, George Carris sold the 85,900 shares from the AO account. At the same time, customer MT sold 24,000 shares, totaling 109,900 shares. The Firm then purchased the 109,900 shares into its error account, reporting a buy and a sell of 109,900 each to the market. The Firm's buying and selling activity constituted 88% of the total market volume on that day.

122. From August 23, 2010 through September 2, 2010, the Respondents moved a third block of 109,900 between its error account and customer accounts in the same manner. Twice the Firm prearranged and reported to the market a trade of 109,900 shares, and each time the Firm's activity constituted over 90% of the volume of trading in Fibrocell for that day.

123. On August 24, 2010, the clearing firm instructed the Firm to immediately sell the 109,900 shares from its error account. The firm "sold" those shares to customer PC that day, in an unfunded trade not reported to the market.

124. On August 27, 2010, the clearing firm instructed the Firm to sell out the 109,900 shares from PC's account. The Firm reported a matched buy and sell of 109,900 shares to the market. The matched trade was a sell by PC and a buy by SQ, both effected through John Carris Investments. The Firm's activity accounted for 97% of total market volume.

125. On September 1, 2010, the Firm reported another matched trade of 109,900 shares to the market, reflecting a sell by SQ and a buy by a John Carris Investments account. The Firm's activity accounted for 96% of total market volume.

126. By engaging in the prearranged trading discussed above, the Respondents acted with scienter by preventing the price and volume from accurately reflecting market activity during Respondents' involvement in the November Offering.

127. As a result of the foregoing conduct, Respondents George Carris, Jason Barter, and John Carris Investments willfully violated Securities Exchange Act of 1934 § 10(b), Rule 10b-5 thereunder, and FINRA Rules 2020 and 2010.

SECOND CAUSE OF ACTION

Fraud and Willfully Making and Causing to be Made False and Misleading Statements in Connection with the Sale of Securities
Violation of Securities and Exchange Act of 1934 § 10(b), Rule 10b-5 thereunder, FINRA Rules 2020 and 2010
(Respondents George Carris and John Carris Investments)

128. The Department realleges and incorporates by reference paragraphs 1-127 above.

129. During the period of October 2010 through September 2012, John Carris Investments offered and sold debt and equity interests in Invictus Capital through the series of private offerings described above, the Self-Offerings. Various materials were used to sell each Self-Offering, namely the: Series A Memorandum, Series B Memorandum, Bridge Subscription Documents and Series C Subscription Documents (the "Self-Offering Materials").

130. In the course of marketing and selling these offerings, John Carris Investments and George Carris made use of means or instrumentalities of interstate commerce, or of the mails or of the facilities of a national securities exchange.

131. In connection with the Self-Offerings, John Carris Investments and George Carris failed to provide potential investors with material information regarding John Carris Investments' and Invictus Capital's financial condition and operations. As a result,

the representations in the Self-Offering Materials regarding the financial condition of John Carris Investments were misleading and omitted material information.

132. Additionally, Invictus Capital paid "dividends" to prior investors out of new investor's funds, in a Ponzi-like manner.

Invictus Capital Operated As a Fraudulent Scheme

133. First, Invictus Capital operated as a fraudulent scheme, through its use of Series A and Series B Offering proceeds for the payment of "dividends" from new investor funds.

134. Dividends are discretionary payments made by a corporation to its stockholders. Under New York law N.Y. BSC. Law § 510, except under limited circumstances that do not apply here, dividends may only be paid out of surplus funds; that is, from a corporation's current fiscal year net profits, or from profits retained from prior fiscal years.

135. Invictus Capital is a Nevada Corporation. Under Nevada law NRS 78.288, dividend payments are prohibited if after the dividend distribution occurs, the corporation would not be able to pay its debts as they become due in the usual course of business, or the corporation's total assets would be less than the sum of its total liabilities plus whatever amount would be needed to satisfy obligations to preferential preferred stockholders.

136. The Series A Memorandum stated that Series A Offering investors were entitled to receive two forms of dividend payments. First, investors could receive "annual accrued dividends of 4% out of funds legally available therefor." Second, investors could receive a quarterly cash dividend "equal to the profit derived from the securities

earned by John Carris as compensation ….” The Series A Memorandum stated that all dividend payments would be made at the sole discretion of the directors of Invictus Capital. During the entire period of the Series A Offering, George Carris was the Firm's sole executive officer and director.

137. Investor funds were deposited in the Invictus Capital bank account, and then transferred after fees and commissions to John Carris Investments. As a shell company, Invictus Capital served only to indirectly hold John Carris Investments and generally did not receive funds from sources other than Invictus Capital investors. John Carris Investments did not fund Invictus Capital, as it held no profits. Instead, the dividends were paid out of funds in the Invictus Capital bank account that were obtained from new Invictus Capital investors.

138. On January 15, 2011, George Carris caused Invictus Capital to issue the following cash dividends to Series A Offering investors:

a. $62.50 to George Carris

b. $858.70 to customer AAR

c. $277.17 to customer AS

d. $81.52 to customer BTSRP

e. $211.86 to customer DM

f. $554.35 to customers DW and CW

g. $135.87 to customer ES

h. $386.41 to customer GK

i. $46.20 to customer KP

j. $160.32 to customer MS

k. $554.35 to customers NM and SM

l. $739.13 to customer RW

m. $317.93 to customer AF

n. $135.87 to customer JB

o. $135.87 to customer MW

p. $46.20 to customer ME

139. Financial statements for John Carris Investments for 2010 report that the Firm incurred net losses of $785,292 in 2010, and had no retained earnings from earlier years. Instead, George Carris caused Invictus Capital to pay dividends directly from funds raised during the Series A Offering.

140. George Carris prepared or caused to be prepared private offering documents for the Series B Offering, which opened on January 24, 2011. The Series B Memorandum states that Invictus Capital paid dividends to its Series A Offering stockholders. However, the offering documents failed to disclose that the dividends paid to Series A Offering investors were *not* paid from profits or retained earnings, but were instead paid from contributions by Series A Offering investors.

141. Further, the Series B Offering Memorandum did not contain any financial statements of Invictus Capital or John Carris Investments. Financial statements would have been material to Series B Offering investors because the financial statements would have revealed that the January 2011 dividend payments paid to Series A Offering investors could not have been paid from profits or retained earnings. For example, they would have revealed that Invictus Capital was nearly insolvent when it paid dividends during January 2011.

142. On April 15, 2011, George Carris caused Invictus Capital to issue the following cash dividends to Series A investors during the open Series B Offering:

a. $230 to George Carris
b. $1,000 to customer AAR
c. $750 to customer AF
d. $250 to customer AS
e. $300 to customer BTSRP
f. $499.78 to customer DM
g. $500 to customer ES
h. $450 to customer GK
i. $250 to customer KP
j. $250 to customers ME and ME
k. $750 to customer MS
l. $500 to customer MW
m. $500 to customers NM and SM
n. $1,000 to customer RW
o. $500 to customer DW
p. $500 to customer JB

143. On July 15, 2011, George Carris caused Invictus Capital to issue the following cash dividends to A Series investors during the open Series B Offering:

a. $230 to George Carris
b. $1,000 to customer AAR
c. $750 to customer AF

d. $250 to customer AS

e. $300 to customer BTSRP

f. $499.78 to customer DM

g. $500 to customer ES

h. $450 to customer GK

i. $250 to customer KP

j. $250 to customers ME and ME

k. $750 to customer MS

l. $500 to customer MW

m. $500 to customers NM and SM

n. $1,000 to customer RW

o. $500 to customer DW

p. $500 to customer JB

144. On October 15, 2011, George Carris caused Invictus Capital to issue the following cash dividends to A Series investors during the open Series B Offering:

a. $230 to George Carris

b. $1000 to customer AAR

c. $750 to customer AF

d. $250 to customer AS

e. $300 to customer BTSRP

f. $499.78 to customer DM

g. $500 to customer ES

h. $450 to customer GK

i. $250 to customer KP

j. $250 to customers ME and ME

k. $750 to customer MS

l. $500 to customer MW

m. $500 to customers NM and SM

n. $1,000 to customer RW

o. $500 to customer DW

p. $500 to customer JB

145. In connection with the Series B Offering, Invictus Capital received gross deposits into its primary bank account totaling $350,000 in March 2011; $816,200 in April 2011; and $495,800 in May 2011. Dividends paid to Series A Offering investors during 2011 came exclusively from the bank account into which new investor funds were being deposited, and the April 15, 2011, July 15, 2011, and October 15, 2011 dividends paid to Series A investors were funded entirely through Series B Offering investor contributions.

146. The Series A Memorandum and Series B Memorandum "Use of Proceeds" sections failed to disclose that investor contributions would be used to pay dividends to earlier Self-Offering investors and that Invictus Capital would pay dividends while operating at a deficit and without retained earnings. By issuing dividends to Invictus Capital investors, George Carris misled current and potential future investors about Invictus Capital's financial condition. Because no financial statements were provided in connection with the Series A Offering or the Series B Offering, the dividend payments were the primary evidence by which an investor might conclude that

Invictus Capital operated profitably. In this regard, the payment of dividends was materially misleading, as investors had no other reasonable means by which to assess Invictus Capital's and John Carris Investments' financial condition.

147. Indeed, after being paid dividends on Series A investments, the following Series A investors went on to purchase additional shares of Invictus Capital in the Series B Offering:

a. On March 8, 2011, customer ES purchased $25,000 of Series B shares
b. On March 10, 2011, customers NM & SM purchased $90,000 of Series B shares
c. On April 1, 2011, customer AAR purchased $150,000 of Series B shares
d. On April 18, 2011, customer ES purchased $50,000 of Series B shares
e. On April 19, 2011, customer JB purchased $25,000 of Series B shares
f. On April 25, 2011, customer AAR purchased $250,000 of Series B shares
g. On April 26, 2011, customer ME purchased $25,000 of Series B shares
h. On April 27, 2011, customer MS purchased $50,000 of Series B shares
i. On May 12, 2011, customers NM & SM purchased $230,000 of Series B shares
j. On June 6, 2011, customer JB purchased $50,000 of Series B shares
k. On July 12, 2011, customer MS purchased $25,000 of Series B shares
l. On August 5, 2011, customer MS purchased $25,000 of Series B shares
m. On August 18, 2011, customer RW purchased $100,000 of Series B shares
n. On September 20, 2011, customer RW purchased $40,000 of Series B shares

o. On September 21, 2011, customers NM & SM purchased $50,000 of Series B shares

p. On September 23, 2011, customer ES purchased $35,000 of Series B shares

q. On October 3, 2011 customer ES purchased $15,000 of Series B shares

r. On October 7, 2011, customer ES purchased $50,000 of Series B shares

148. On April 15, 2011, George Carris caused Invictus Capital to pay a total of $1,476 in dividends to 16 Series B investors out of funds in the Invictus Capital Bank account that were supplied by new Invictus Capital investors.

149. On July 15, 2011, George Carris caused Invictus Capital to pay a total of $14,884 in dividends to 40 Series B investors out of funds in the Invictus Capital Bank account that were supplied by new Invictus Capital investors.

150. On October 15, 2011, George Carris caused Invictus Capital to pay a total of $22,982 in dividends to 69 Series B investors out of funds in the Invictus Capital Bank account that were supplied by new Invictus Capital investors.

151. In 2011, John Carris Investments operated at a net loss of $3,090,148.

Fraudulent Misstatements And Omissions in Self Offering Materials

152. Second, the Self-Offering documents contained fraudulent misstatements and fraudulently omitted material information about the condition of Invictus Capital and John Carris Investments. All of the Self-Offering Materials failed to provide financial statements of Invictus Capital, and the Series A Memorandum and Series B Memorandum failed to provide financial statements of Invictus Capital or John Carris Investments.

153. Despite having an operating history, the Series A Memorandum and Series B Memorandum each described Invictus Capital as a "development stage company" with "no revenue from operations" and claimed that its business was difficult to evaluate because it had no operating history. This was false and misleading. When John Carris Investments first sold Invictus Capital Series A shares to its customers, the Firm had been in operation for over one year, and when the Firm first sold Series B shares, it had been in operation for over one and one half years. Further, the Series A and Series B Memoranda failed to disclose that John Carris Investments – the business through which Invictus Capital expected to generate revenue – had operated at a significant loss throughout the Offering Periods.

154. The Series A Memorandum and Series B Memorandum further misled investors by failing to disclose that Invictus Capital could pay or had previously paid dividends to its Series A and Series B investors from principal contributions from those same investors, rather than from net operating profits or retained earnings.

155. The Bridge Subscription Documents stated that the $2 million that Invictus Capital sought to raise through the offering was projected to allow Invictus Capital to stay in operation for 13 months. This statement was false and misleading. When the Bridge Offering was fully subscribed for $2 million in just over three months, the Firm had to immediately open a new Series C Offering in order to stay in operation.

156. Indeed, the Bridge Offering and the Series C Offering were both sold to investors during periods while the Firm was actually out of net capital compliance and should have ceased operations, or when the Firm required the investment of new funds to stay open that month.

157. Moreover, the "Use of Proceeds" section of the Series C Subscription Documents stated that the proceeds would be used "primarily for additional working capital and other general corporate expenses associated with maintaining and attempting to grow the business of the broker dealer," giving no indication of the dire financial needs of Invictus Capital and John Carris Investments.

158. Given the financial condition of the Firm and of Invictus Capital, the failure to include Financial Statements from the entities was a material omission.

159. Third, the Self-Offering documents for each of the four Invictus Capital offerings failed to disclose that the Firm and George Carris used substantial amounts of John Carris Investments' funds for personal expenses, for which the Firm was not reimbursed. This information was material to potential investors because use of investor proceeds for non-business purposes materially impacted the investors' ability to receive a return on their investments. Indeed, the Bridge Offering Subscription Documents included audited financials from 2010 that appended financial statements in which personal expenses were quantified as gifts, office expenses, entertainment and other legitimate business expense categories.

160. Fourth, the Self-Offering Materials failed to adequately disclose the conflict of interest presented by John Carris Investments acting as the placement agent for the Invictus Capital offerings. John Carris Investments' brokers were the sole means through which Invictus Capital private placements were sold. Because the Firm relied entirely upon continued sales of Invictus Capital placements in order to remain in operation, the Firm and its brokers were required to sell Invictus Capital placements in order to remain in business. However, the Self-Offering Materials,

including the “Risk Factors” section of each document failed to adequately disclose this conflict.

161. Further, the Series B Memorandum and the Series C Subscription Documents each failed to adequately disclose that an investor’s investment would lose value in absolute dollar terms at the time of conversion to common shares in the event of a public offering, unless the company was valued over $251 million, as further detailed below.

162. Each of the foregoing misrepresentations and omissions was willful and knowing or, at minimum, reckless.

163. The aforementioned acts, practices and conduct are inconsistent with high standards of commercial honor and just and equitable principles of trade.

164. As a result of the foregoing conduct, Respondents George Carris and John Carris Investments willfully violated Securities and Exchange Act of 1934 § 10(b), Rule 10b-5 thereunder, and FINRA Rules 2020 and 2010.

THIRD CAUSE OF ACTION

Fraud and Willfully Making and Causing to be Made False and Misleading Statements in Connection with the Sale of Securities
Violation of Securities Exchange Act of 1934 § 10(b), Rule 10b-5 thereunder, FINRA Rules 2020 and 2010
(Respondent John Carris Investments)

165. The Department realleges and incorporates by reference paragraphs 1-164 above.

George Carris and DB Liquidate Shares of Fibrocell

166. On April 29, 2013, Fibrocell issued a press release announcing that it would implement a one-for-twenty-five reverse stock split of its common shares effective at

the opening of business on April 30, 2013. In addition, Fibrocell announced that it had been cleared to submit a listing application to the NYSE MKT. On May 17, 2013, Fibrocell became listed on the NYSE MKT, and has traded on that exchange through the date of this Amended Complaint.

167. On May 2, 2013, George Carris owned 74,636 shares of Fibrocell stock that he received as compensation for investment banking services performed for Fibrocell, and which George Carris held in his personal account at John Carris Investments. In addition, as of May 2, 2013, another Firm principal, DB, owned 73,969 shares of Fibrocell stock that DB received as compensation for investment banking services performed for Fibrocell, and which were held in DB's personal account at John Carris Investments. At the same time, George Carris and DB owned thousands of additional Fibrocell warrants at various predetermined exercise prices, including numerous warrants exercisable at a price of $6.25.

168. On May 3, 2013 George Carris and DB began liquidating their Fibrocell shares. By May 21, 2013, George Carris had sold at least 74,636 shares of Fibrocell common stock yielding sales proceeds of $354,383.90. By that same day, DB had sold at least 73,969 shares of Fibrocell common stock yielding sales proceeds of $350,181.08.

169. George Carris and DB acted together to liquidate their Fibrocell positions. Particularly, throughout the period from May 3, 2013 through May 21, 2013, George Carris and DB periodically discussed and agreed upon the daily number of Fibrocell shares that they would collectively attempt to sell from their personal accounts. Thereafter, George Carris or DB directed the Firm's Head Trader Jason Barter to

effect sales of Fibrocell stock from George Carris' and DB's accounts for the daily agreed-upon number of shares.

170. After George Carris directed head trader Jason Barter to sell a specified number of George Carris and DB's Fibrocell shares on a given trading day, Jason Barter routed the orders to market makers to be executed.

171. During the Liquidation Period, while George Carris and DB were selling shares of Fibrocell, John Carris Investments' registered representatives were actively soliciting the Firm's customers to buy Fibrocell stock.

a. On each of the thirteen trading days in May 2013 that George Carris or DB sold shares of Fibrocell, John Carris Investments registered representative GH solicited Firm customers to buy Fibrocell stock. As a result of GH's efforts, he successfully solicited purchases of Fibrocell stock from sixteen of the Firm's customers, totaling approximately 56,000 shares.

b. On at least twelve of the thirteen trading days in May 2013 that George Carris or DB sold shares of Fibrocell, John Carris Investments registered representative AT solicited Firm customers to buy Fibrocell stock. As a result of AT's efforts, he successfully solicited purchases of Fibrocell stock from 24 of the Firm's customers, totaling approximately 72,000 shares.

c. On at least four of the thirteen trading days in May 2013 that George Carris or DB sold shares of Fibrocell, John Carris Investments registered representative MT solicited Firm customers to buy Fibrocell stock. As a result of MT's efforts, he successfully solicited purchases of Fibrocell stock from four of the Firm's customers, totaling approximately 7,400 shares.

d. During the complete Liquidation Period, the Firm's registered representatives solicited Firm customers to buy a total of 206,721 shares of Fibrocell stock.

172. Many of George Carris' and DB's sell-side Fibrocell offers were matched with purchase orders from Firm customers that were solicited by the Firm's registered representatives.

a. On May 3, 2013, George Carris sold 4,000 Fibrocell shares from his personal Firm account in eight trade executions. Of the total shares sold, 2,100 were matched with Firm-solicited buy orders in four trade executions.

b. On May 6, 2013, George Carris and DB sold 10,000 Fibrocell shares from their personal Firm accounts in eighteen trade executions. Of the total shares sold, 4,954 were matched with Firm-solicited buy orders in eight trade executions.

c. On May 15, 2013, George Carris and DB sold 19,915 Fibrocell shares from their personal Firm accounts in eleven trade executions. Of the total shares sold, 2,360 were matched with Firm-solicited buy orders over two trade executions.

173. During the Liquidation Period, John Carris Investments' trading activity in Fibrocell made up a substantial percentage of, and often dominated, the total market volume. During that time period:

a. On May 3, 2013, the Firm's reported volume represented 56% of total market volume.

b. On May 6, 2013, the Firm's reported volume represented 50% of total market volume.

c. On May 7, 2013, the Firm's reported volume represented 74% of total market volume.

d. On May 8, 2013, the Firm's reported volume represented 94% of total market volume.

e. On May 9, 2013, the Firm's reported volume represented 76% of total market volume.

f. On May 10, 2013, the Firm's reported volume represented 59% of total market volume.

g. On May 13, 2013, the Firm's reported volume represented 88% of total market volume.

h. On May 14, 2013, the Firm's reported volume represented 58% of total market volume.

i. On May 15, 2013, the Firm's reported volume represented 71% of total market volume.

j. On May 16, 2013, the Firm's reported volume represented 42% of total market volume.

k. On May 17, 2013, the Firm's reported volume represented 28% of total market volume.

l. On May 20, 2013, the Firm's reported volume represented 49% of total market volume.

m. On May 21, 2013, the Firm's reported volume represented 37% of total market volume.

174. Overall during the Liquidation Period, when George Carris and DB were selling their Fibrocell shares, the Firm's registered representatives solicited Firm customers to purchase a greater quantity of Fibrocell shares than George Carris and DB sold. Specifically, during the Liquidation Period, George Carris and DB sold approximately 148,605 common shares of Fibrocell stock while the Firm's registered representatives solicited Firm customers to purchase 206,721 shares of Fibrocell. Thus, during the Liquidation Period Carris and DB benefitted from upward price pressure caused by the solicited demand. Indeed, George Carris sold his first block of Fibrocell shares on May 3, 2013 at a price of $4.27 per share; the average price at which George Carris and DB sold Fibrocell throughout the liquidation period was $4.74. Ninety-six percent of the shares that George Carris and DB sold were priced between $4.60 and $4.90.

175. George Carris and DB had a substantial economic interest in keeping the price of Fibrocell as high as possible during the Liquidation Period. In addition, because Fibrocell was thinly traded, its stock price was especially sensitive to trading activity on both the buy- and sell-side. Thus, George Carris and DB deliberately sold their positions slowly over time to prevent Fibrocell's stock price from falling. At the

same time, the Firm's registered representatives kept Fibrocell's stock price stable – or increased the price – by soliciting customers to purchase shares of Fibrocell stock.

176. George Carris knew that the Firm's registered representatives were soliciting purchases of Fibrocell from Firm customers throughout the Liquidation Period. Throughout this time, George Carris failed to disclose, or to cause others to disclose, to Firm customers who purchased Fibrocell shares that he and DB were systematically liquidating their positions in the stock. George Carris did not disclose to the Firm's registered representatives, including GH, AT, and MT, that he and DB were liquidating their Fibrocell stock holdings. Further, no one else disclosed to GH, AT, and MT that George Carris and DB were liquidating their Fibrocell stock holdings. Thus, GH, AT, and MT, did not inform the Firm's customers from whom they solicited purchases of Fibrocell that George Carris and DB were contemporaneously liquidating their positions in the stock.

177. George Carris used certain proceeds from his liquidations to make capital contributions into Invictus Capital. As of April 2013, Invictus Capital's sole operating subsidiary, John Carris Investments, reported losses aggregating in the millions of dollars. In an April 2013 offering memorandum, Invictus disclosed that it had issued $1,960,000 of Bridge Notes that had matured and not been paid, and were therefore in default and would commence accruing interest at a rate of 11%. Invictus further disclosed that it did not have funds to repay the defaulted Bridge Notes and may be required to use net proceeds from its ongoing offering to repay the Bridge Notes; and that it had minimal available funds and was wholly reliant on raising substantial funds to continue operations, pay regulatory expenses, and possibly repay

principal and other amounts related to the Bridge Notes. From April 2013 through June 2013, George Carris made capital contributions into Invictus Capital totaling $128,000, $58,000 of which occurred during or shortly after the Liquidation Period.

178. The Firm had a duty to disclose information regarding any actual or potential conflict of interest. Failure to disclose an existing conflict of interest deprives a customer of the opportunity to make an informed investment decision.

179. George Carris' and DB's interest in selling their Fibrocell shares at the highest possible price, conflicted with the Firm's customers' interest in purchasing the stock at the lowest possible price. John Carris Investments failed to notify any customers from whom it solicited purchases of Fibrocell that in furtherance of their own self-interest, Firm principals were acting contrary to the Firm's recommendation to buy Fibrocell.

180. The Firm's failure to disclose this material conflict of interest was knowing or, at a minimum, reckless.

181. By withholding material information from the Firm's customers, John Carris Investments willfully violated Securities Exchange Act of 1934 § 10(b), Rule 10b-5 thereunder, and FINRA Rules 2020 and 2010.

FOURTH CAUSE OF ACTION

Aiding and Abetting John Carris Investments' Violations of Securities Exchange Act of 1934 § 10(b), Rule 10b-5 thereunder, and FINRA Rules 2020, in violation of FINRA Rules 2020 and 2010 (Respondent George Carris)

182. The Department realleges and incorporates by reference paragraphs 1-181 above.

183. During the Liquidation Period, John Carris Investments failed to notify customers from whom it solicited purchases of Fibrocell stock that George Carris and DB were selling their positions in Fibrocell, totaling nearly 150,000 shares.

184. By reason of this conduct, John Carris Investments willfully violated Section 10(b) and Rule 10b-5 of the Securities Exchange Act of 1934, and FINRA Rules 2020 and 2010.

185. George Carris knowingly, or at a minimum recklessly, provided substantial assistance to John Carris Investments in connection with the violative activity alleged in the Third Cause of Action.

186. George Carris thereby willfully aided and abetted John Carris Investments' willful violations of Securities Exchange Act of 1934 § 10(b), Rule 10b-5 thereunder, and FINRA Rules 2020 , in violation of FINRA Rules 2020 and 2010.

FIFTH CAUSE OF ACTION

Sale of Unsuitable Products
Violation of NASD Rule 2310; FINRA Rules 2111 and 2010
(Respondents John Carris Investments, George Carris and Andrey Tkatchenko)

187. The Department realleges and incorporates by reference paragraphs 1-186 above.

188. NASD Rule 2310 was in effect from the beginning of the Relevant Period through July 8, 2012 and required that when a member recommends to a customer the purchase, sale or exchange of any security, a member shall have reasonable grounds for believing that the recommendation is suitable for such customer upon the basis of the facts disclosed by such customer as to his financial situation and needs. Under NASD Rule 2310, a broker-dealer and its registered representatives must satisfy a

"reasonable basis" suitability requirement, pursuant to which they must 1) understand the recommended security or strategy and the risks involved; and 2) determine whether the recommendation is suitable for at least some investors.

189. FINRA Rule 2111 became effective on July 9, 2012, and holds members to the same standards of conduct as its predecessor NASD Rule 2310.

190. During the Offering Period, the Firm, George Carris and Tkatchenko did not satisfy their reasonable basis suitability obligation with respect to the Self-Offerings. Nonetheless, they recommended the securities to their John Carris Investments customers.

191. The Series B Offering and Series C Offering provided no means for investors to redeem their shares from Invictus Capital – the securities were entirely illiquid unless Invictus Capital became publicly traded. Similarly, the Bridge Notes mandatorily converted to Series C preferred stock upon maturity, and provided no means for investors to exit their investment.

192. Further, in the event that shares obtained through the Series B and Series C Offerings became liquid, the shares would immediately lose significant value. Specifically, the Series B Memorandum and Series C Subscription Documents stated that preferred shareholders were entitled to convert their shares into common stock. Alternatively, in the case that Invictus Capital was publicly listed on an exchange, which has not occurred to date, the conversion would be mandatory. The "Conversion Price" of the common shares received in exchange would be "determined by dividing the stated value ($25) by the conversion price ($200)." Thus, at the time of conversion, Series

B and Series C Offering preferred shareholders would realize an 8 to 1 dilution in value when each preferred share converted into .125 common shares.

193. To illustrate, RW, an investor who made a $100,000 investment in the Series B Offering purchased 4,000 preferred shares at $25 per share. If shares became listed on an exchange at $1 per common share, RW would see his investment automatically converted to 500 common shares worth $1 each. Therefore, RW's initial $100,000 private investment would be worth $500 in the open market at the time of the initial listing. Consequently, at every initial listing price of less than $200, the investor would realize a loss at conversion. Only in the extremely unlikely event that the Firm is first listed at $200 per share does the investor break even.

194. According to the Series C Subscription Documents, 1,256,000 common shares were outstanding on March 9, 2012. In order to achieve an initial listing of $200 per share, the market capitalization of Invictus Capital would have to be $251 million – an impossible feat given the Firm's lack of assets and revenue. Because Invictus Capital securities were illiquid, subject to extraordinary reduction in value at the time of conversion to common stock, and could not reasonably generate profit for investors, George Carris and Tkatchenko lacked a reasonable basis to find that a recommendation of these securities would be suitable for any customer.

195. The Quarterly Dividend did nothing to make the Invictus Capital securities suitable for John Carris Investments customers. First, the payment of dividends – 4% for the Series A Offering and Series B Offering and 8% for the Series C Offering – was left entirely to George Carris' discretion. Second, dividends paid to earlier Self-Offering

investors were paid from later Self-Offering investor contributions, thereby reducing the capital available to the Firm and contributing to its precarious financial position.

196. Similarly, the Warrant Share feature did nothing to make the investments suitable. In particular, it did not provide exposure to a diverse variety of investments. Most of the warrants received by the Firm came from a single client – Fibrocell. Moreover, most warrants were issued to employees and principals, particularly George Carris, rather than to John Carris Investments or Invictus Capital. Further, investors had no absolute right to receive warrant dividends because they were to be granted entirely at George Carris' discretion.

197. Further, Invictus Capital securities were unsuitable because the proceeds collected from the sale of the securities were not used as described in the "Use of Proceeds" sections of the Self-Offering Documents. Firm principals used funds generated through the Self Offerings to pay dividends to earlier investors in a Ponzi-like manner and to pay for George Carris' personal expenses, which was not disclosed until the Series C Subscription Documents.

198. George Carris and Tkatchenko acted as customer-interfacing brokers who sold Invictus Capital securities directly to John Carris Investments' customers.

199. Based upon the foregoing, George Carris and Tkatchenko each lacked a reasonable basis to believe that the investments were suitable to sell to any investor based upon reasonable due diligence. They had no reasonable grounds to expect economic gains for their customers based upon these investments.

200. The Second Series C Offering is ongoing. It is unsuitable in the same ways described above, and in light of Invictus Capital's default on over $1.9 million worth of Bridge Notes. The Series C Subscription Documents state that the funds obtained from the offering will be used primarily to pay regulatory expenses and to raise enough funds to trigger the mandatory conversion of Bridge Notes into Series C Preferred Stock, despite the fact that the Bridge Notes are already in default. In addition, the Series C Subscription Documents state that the funds will be used to pay back amounts due in connection with the Bridge Notes, to pay dividends or repay earlier Invictus investors and to fund the operating expenses of the firm. This offering is unsuitable for any investor.

201. As a result, Respondents George Carris, Andrey Tkatchenko, and John Carris Investments violated NASD Rule 2310 and FINRA Rules 2111 and 2010.

SIXTH CAUSE OF ACTION

Willful Failure to Maintain Accurate Books and Records
Violation of Securities Exchange Act 17(a) and Rule 17a-3 *et seq.* thereunder; NASD Rule 3110(a); FINRA Rules 4511 and 2010
(Respondents George Carris, Joseph Principe, and John Carris Investments)

202. The Department realleges and incorporates by reference paragraphs 1-201 above.

203. Pursuant to SEC Rule 17a-3, member firms must make and keep, among other things: ledgers (or other records) reflecting all assets and liabilities, income and expense and capital accounts.

204. NASD Rule 3110(a) required members to make and preserve books, accounts, records, memoranda, and correspondence in conformity with all applicable laws, rules, regulations and statements of policy promulgated thereunder, and with the

Rules prescribed by SEC Rule 17a-3. NASD Rule 3110(a) was effective until December 5, 2011.

205. FINRA Rule 4511 requires members to make and preserve books and records as required under FINRA rules, the Exchange Act and the applicable Exchange Act rules. FINRA Rule 4511 became effective on December 5, 2011.

206. From on or about January 1, 2010 through December 31, 2011, George Carris caused the Firm to falsely classify his personal expenses as legitimate business expenses. Among his duties as Managing Principal, Joseph Principe was responsible for approving business expenses.

207. For each of these expenses, the Firm's general ledger contains entries that falsely describe George Carris' non-business expenses as legitimate expenses of the Firm. Financial statements prepared from the Firm's in-house books and records are also false in that they overstate the Firm's business expenses.

208. The Firm also failed to maintain and preserve records that underlie expenses paid by the Firm such as supporting documentation for cash-based purchases of purported business expenses. For example, George Carris regularly withdrew cash from John Carris Investments' bank account. Typically, these withdrawals are identified on the general ledger as an "Office Expense." However, the Firm did not retain any documentation to support that the cash withdrawals were used for office expenses.

209. In order to maintain a bank balance sufficient to pay monthly operating expenses, John Carris Investments relied upon regular infusions of cash from Invictus Capital, which Invictus Capital obtained from Self-Offering proceeds, because the Firm's revenue regularly fell short of expenses. Funds were transferred from Invictus

Capital to John Carris Investments. On three occasions during March 2011, funds transferred from Invictus Capital to the Firm were each incorrectly labeled in the Firm's general ledger as a payment from George Carris and remained incorrectly classified as a payment from George Carris for months, until November 2011.

210. Further funds that George Carris provided directly to the Firm were also labeled in the Firm's general ledger as "Member Contributions" from George Carris. However, George Carris held no direct ownership interest in the Firm, and thus had no ability to make a "member contribution."

211. By virtue of the foregoing, George Carris and Principe violated NASD Rule 3110, and FINRA Rules 4511 and 2010 in that they caused the Firm to create and maintain inaccurate books and records, in violation of §17(a) of the Securities Exchange Act of 1934 and Rule 17a-3 promulgated thereunder.

212. By means of the foregoing conduct, Respondent John Carris Investments willfully violated Securities Exchange Act of 1934 § 17 and Rule 17a-3 thereunder, NASD Rule 3110, and FINRA Rules 4511 and 2010 by creating and maintaining inaccurate books and records.

SEVENTH CAUSE OF ACTION

Failure to Observe High Standards of Commercial Honor
and Just and Equitable Principles of Trade by Falsifying Tax Form W-2
(FINRA Rule 2010)
(Respondents George Carris and John Carris Investments)

213. The Department realleges and incorporates by reference paragraphs 1-212 above.

214. FINRA Rule 2010 requires that every member, in the conduct of his or her business, observe high standards of commercial honor and just and equitable principles of trade with regard to his or her business practices.

215. The United States tax code defines gross income as "all income from whatever source derived," including but not limited to compensation for services, including fees, commissions, fringe benefits, and similar items; gross income derived from business; dividends; and distributive shares of partnership gross income.

216. Every employer engaged in a trade or business that pays remuneration, including non-cash payments, for services performed by an employee must file a Form W-2 for such employee.

217. From July 2009 through December 31, 2011, George Carris caused John Carris Investments to pay him more than $1,000,000 in cash and non-cash payments.

218. During the 2009 tax year, George Carris caused the Firm to compensate him with cash and non-cash payments totaling over $55,000 by charging personal, non-business expenses to the Firm. As of December 31, 2009, the Firm's books and records categorized these payments as though they were legitimate business expenses, even though these expenses were George Carris' personal expenses and should have been categorized as compensation to George Carris. In addition, the Firm did not issue any year-end tax reporting forms to George Carris, including a Form W-2.

219. During the 2010 tax year, George Carris caused the Firm to compensate him with cash and non-cash payments totaling over $330,000 by charging personal, non-business expenses to the Firm. As of December 31, 2010, the Firm's books and

records categorized these payments as though they were legitimate business expenses, even though these expenses were George Carris' personal expenses and should have been categorized as compensation to George Carris. Further, the Firm did not issue any year-end tax reporting forms to George Carris, including a Form W-2.

220. During the 2011 tax year, George Carris caused the Firm to pay over $640,000 of personal expenses on his behalf. After FINRA commenced its investigation, the Firm issued George Carris a Form W-2 for tax year 2011. However, the Firm reported only approximately $150,416 in wages, tips, and other compensation on the Form W-2. This form was false in that it did not report the additional $489,854 of personal expenses that the Firm paid on George Carris' behalf for 2011. Further, the Firm did not issue any other year-end tax reporting forms to George Carris that reported this additional compensation.

221. As a result of the foregoing conduct, Respondents George Carris and John Carris Investments violated FINRA Rule 2010.

EIGHTH CAUSE OF ACTION

Failure to Establish and Implement Anti-Money Laundering Procedures
Violation of FINRA Rules 3310 and 2010
(Respondents George Carris, Brian Simmons, and John Carris Investments)

222. The Department realleges and incorporates by reference paragraphs 1-221 above.

223. FINRA Rule 3310(a) provides that member firms must establish and implement policies and procedures that can be reasonably expected to detect and cause the reporting of transactions required under 31 U.S.C. 5318(g) and the implementing regulations thereunder.

224. From May 2010 through May 2011 (the "AML Period"), the Firm, George Carris and Simmons failed to adequately establish and implement adequate anti-money laundering procedures.

225. From on or about June 11, 2009 through on or about August 23, 2010, including nearly four months of the AML Period, George Carris was responsible for implementing the Firm's AML compliance program, including ensuring compliance with monitoring for suspicious activity.

226. From on or about August 23, 2010 through on or about September 14, 2012, including approximately eight months of the AML Period, Brian Simmons was the Firm's AML compliance officer. During this time, Simmons was responsible for implementing the Firm's AML compliance program, including ensuring compliance with monitoring for suspicious activity.

227. As a FINRA member firm, John Carris Investments was required to implement a risk-based AML program tailored to its lines of business. The Firm's AML policies, procedures, and internal controls for the AML Period were described in the Firm's written Anti Money Laundering Program, dated September 1, 2009 and September 22, 2010, (collectively the "AML Programs") and in the Firm's Written Supervisory Procedures ("WSPs"), dated December 21, 2010, and April 7, 2012.

228. During the AML Period, the Firm's business was heavily comprised of trading in penny stocks. However, the Firm's AML policies, procedures, and internal controls were not reasonably designed to achieve compliance with the Bank Secrecy Act and its implementing regulations.

229. The AML Programs and WSPs each identified the "AML Compliance Officer" as the person responsible for detecting potential money laundering activity.

230. The 2009 AML Program and 2010 AML Program each described examples of suspicious activities, including "trading that constitutes a substantial portion of all trading for the day in a particular security; trading or journaling between/among accounts, particularly between related owners; late day trading; heavy trading in low-priced securities; unexplained wire transfers, including those to known tax havens; [and] unusually large deposits of funds or securities."

231. The AML Programs stated that the Firm would review "[i]nformation or reports provided by the clearing firm for business introduced through the clearing firm" as part of its process for identifying potential suspicious activity.

232. The WSPs stated that the Firm's AML monitoring consisted of using available exception reports from its clearing firm and reviewing account activity to identify patterns of unusual size, volume, pattern, or type of transactions or other "red flags" identified in its procedures.

233. The WSPs also stated that "[a]mong the information used to determine whether to file a suspicious activity report are exception or transaction reports that include transaction size, location, type, number, and nature of the activity."

234. The WSPs identified a number of red flags, including:

a. The customer wishes to engage in transactions that lack business sense or apparent investment strategy, or are inconsistent with the customer's stated business strategy.

b. The customer engages in suspicious activity involving the practice of depositing penny stocks, liquidating them, and wiring proceeds.

c. For no apparent reason, the customer has multiple accounts under a single name or multiple names, with a large number of inter-account or third-party transfers.

d. The customer maintains multiple accounts, or maintains accounts in the name of family members or corporate entities, for no apparent business purpose or other purpose.

235. However, John Carris Investments, George Carris, and Brian Simmons failed to implement the Firm's AML Programs and WSPs, as they did not adequately review transactions for suspicious activity, and did not review the reports that the clearing firm provided to them as the AML Programs specified that they would.

236. The clearing firm provided reports that detailed the Firm's trade activity, fund activity and all securities received and delivered. Instead of reviewing these reports, the Firm conducted manual review of wire transactions and penny stock transactions as they occurred on a day to day basis. This manual process, as detailed below, failed to reveal red-flags or suspicious trading patterns.

237. In particular, Simmons, Principe or one other registered person at the Firm, SY, were tasked with reviewing wire and trading activity as each transaction occurred in various customer accounts. Customer accounts were not assigned to any one of these three individuals in particular, so that a single customer's trading activity might be reviewed by one individual on day one, the same customer's trading activity might be

reviewed by a different individual on day two, and the same customer's wire activity might be reviewed by a third individual on day three. Thus, the Firm was not able to observe patterns of potentially suspicious activity or behavior.

238. In connection with the AML Programs, Simmons only reviewed penny-stock transactions to ensure that the securities were properly cleared. He failed to review the transactions for suspicious activity or patterns.

239. This procedure was not sufficient to detect and investigate suspicious activity relating to penny stock transactions. In several instances, as described in detail below, 1) within a short period of time, customer accounts received shares of penny stocks, quickly sold their positions, and immediately wired out the funds, 2) other customer accounts had frequent large incoming and outgoing wire transfers, and 3) still other customer accounts had numerous cancelled buy transactions. Neither Simmons nor George Carris, nor any other Firm employee took steps to inquire about these transactions in order to determine whether they constituted suspicious activity.

240. From May 11, 2010 through February 1, 2011, customer SS controlled two distinctly named accounts at John Carris Investments. During the above time period, SS purchased, sold and transferred between these accounts several million shares of low-priced securities (penny stocks). On at least ten occasions, SS canceled a sell or buy order after the order was initially placed. During the same period, SS wired over $105,000 in sale proceeds from a Firm account to an outside account shortly after receiving sale proceeds.

241. From May 12, 2010 through May 10, 2011, customers and family members PB and DB controlled three accounts at John Carris Investments. During the above time

period, PB and DB purchased and sold millions of shares of low-priced securities, including Fibrocell. On June 8, 2010, PB and DB purchased 130,000 shares of Fibrocell in five transactions in an individually named account, and on the same day sold 130,000 shares of Fibrocell in five transactions through one of these accounts in the name of an entity. On June 9, 2010, PB and DB wired $64,500 from a Firm account to an outside account. During the May 2010 to May 2011 period, PB and DB canceled at least 14 buy or sell transactions involving Fibrocell.

242. From May 11, 2010 through March 28, 2011, customer SF controlled an account at John Carris Investments. During the same time period, SF deposited and sold over three million shares of five low-priced securities. During the same time period, SF wired over $250,000 from a Firm account to an outside account. During the same period, SF entered approximately ten buy-side orders, eight of which were canceled.

243. From October 15, 2010 through March 31, 2011, customer JF controlled two accounts at John Carris Investments. During the same time period, JF sold and transferred between these accounts several million shares of low-priced securities. During the same time period, JF wired from a Firm account to an outside account or received payment by check totaling $14,749.10. During the same time period, JF entered seven buy-side orders, all of which were canceled.

244. From November 9, 2010 through May 4, 2011, customer ES controlled an account at John Carris Investments. During the same time period, ES deposited, purchased and sold several million shares of low-priced securities, including Fibrocell. During the same time period, ES wired from a Firm account to an outside account approximately $450,000.

245. From November 17, 2010 through April 15, 2011, customer HG controlled an account at John Carris Investments. During the same time period, HG purchased and sold hundreds of thousands of shares of low-priced securities. During the same time period, HG wired from a Firm account to an outside account approximately $79,500 in nine separate transactions.

246. From May 19, 2010 through May 13, 2011, customers and family members AM and LM controlled four accounts at John Carris Investments. During the same time period, AM and LM deposited, purchased and sold several million shares of low-priced securities, including Fibrocell. During the same time period, AM and LM wired from their Firm accounts to an outside account approximately $480,000 in 27 separate transactions.

247. From November 12, 2010 through April 26, 2011, customer IV controlled two accounts at John Carris Investments. During the same time period, IV deposited, purchased, sold and transferred between accounts hundreds of thousands of shares of low-priced securities, including Fibrocell. During the same time period, IV wired from a Firm account to an outside account approximately $85,000.

248. Moreover, as described *supra* in the First Cause of Action, from on or about May 1, 2010 through May 31, 2011, suspicious trading activity in Fibrocell Science Inc. occurred in numerous customer accounts.

249. Neither Simmons nor George Carris, nor any other Firm employee took steps to inquire about these transactions in order to determine whether they constituted suspicious activity that should have been reported transactions under 31 U.S.C. 5318(g).

250. Further, although the Firm's clearing firm notified it about high-risk transactions, the Firm failed to record whether or how it engaged in any follow-up activity after it was notified, and had no system in place that directed compliance personnel how to respond to such notifications.

251. By means of the foregoing conduct, Respondents George Carris, Brian Simmons, and John Carris Investments violated FINRA Rules 3310(a) and 2010.

NINTH CAUSE OF ACTION

Failure to Establish, Maintain, and Enforce a System to Supervise in Violation of NASD Rule 3010 and FINRA Rule 2010 (Respondents George Carris, Brian Simmons, Randy Hechler, and John Carris Investments)

252. The Department realleges and incorporates by reference paragraphs 1-251 above.

253. NASD Rule 3010(a) requires that a firm adopt a comprehensive system of supervision that is "reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable [FINRA and NASD] Rules."

254. Simmons was the Chief Compliance Officer from August 2010 until September 2012, responsible for enforcing and maintaining the Firm's Written Supervisory Procedures and responsible for regulatory compliance. Simmons was responsible for directly supervising accreditation and suitability determinations in connection with private placements, including placements of Invictus Capital securities. George Carris was the Firm's CEO during the Relevant Period, and responsible for regulatory compliance. From May 2009 until October of 2010, George Carris was also the Firm's Chief Compliance Officer. During the Relevant Period, the Firm, George Carris and Simmons failed to adequately supervise the activities of registered

representatives, registered principals, and other associated persons in a manner reasonably designed to achieve compliance and to prevent and detect the misconduct by the Respondents alleged *infra* in the First, Second, Fifth and Sixth Causes of Action and *supra* in the Tenth and Eleventh Causes of Action of this Complaint.

255. From December 2012 through the date of this Amended Complaint, Hechler was the Firm's Chief Compliance Officer and was responsible for ensuring general regulatory compliance at the Firm. Hechler was also responsible for maintaining the Firm's Written Supervisory Procedures, including making any necessary amendments to the procedures and communicating those amendments to the Firm's staff.

256. Throughout the Liquidation Period, the Firm had in effect Written Supervisory Procedures dated January 18, 2013 (the "January 2013 Written Supervisory Procedures"). The January 2013 Written Supervisory Procedures did not provide any guidance concerning detecting and disclosing conflicts of interest present when the Firm's customers were solicited to purchase securities that the Firm's principals were contemporaneously selling.

257. Yet throughout the Liquidation Period, Hechler reviewed the Firm's trading records within one business day after trading activity occurred. Thus, Hechler was aware throughout the Liquidation Period that George Carris and DB were selling shares of Fibrocell while the Firm's registered representatives solicited Firm customers to buy Fibrocell. Despite the fact that Hechler was aware of such conflict of interest, he failed to take action to amend the Firm's procedures in order that Firm personnel would be able to detect and report similar conflicts of interest.

258. Thus, John Carris Investments and Hechler failed to establish and maintain proper supervisory procedures that provided a mechanism for Firm personnel to detect violations of securities laws and rules concerning conflicts of interest.

259. By means of the foregoing conduct, Respondents George Carris, Brian Simmons, Randy Hechler, and John Carris Investments violated NASD Rule 3010 and FINRA Rule 2010.

TENTH CAUSE OF ACTION

Willful Failure to Maintain Required Net Capital
Violation of Securities Exchange Act of 1934 § 15,
Rule 15c-3, *et seq*. thereunder, and FINRA Rule 2010
(Respondents George Carris and John Carris Investments)

260. The Department realleges and incorporates by reference paragraphs 1-259 above.

261. From July 2010 through the date of this complaint, pursuant to SEC Rule 15c3-1, John Carris Investments was required to maintain a minimum net capital of $100,000.

262. On or about March 23, 2012, John Carris Investments' then Financial Operations Principal, SH, notified FINRA via email that John Carris Investments had been operating without sufficient net capital for a substantial time period.

263. On or about March 23, 2012, John Carris Investments filed a Rule 17a-11(b) Net Capital Deficiency Financial Notice with FINRA that indicated the Firm had a net capital deficiency of $332,266 on the most recent date of deficiency and had been deficient from November 1, 2011 through March 19, 2012.

264. John Carris Investments, acting through George Carris, failed to record, understated, overstated, and/or misclassified items that impacted the Firm's calculation of net

capital. Most significantly, the Firm failed to accrue tens of thousands of dollars in deferred rent and more than $190,000 in unpaid payroll taxes.

265. The Firm conducted a securities business with deficient net capital for November 1, 2011 through March 19, 2012.

266. On or about August 14, 2012, John Carris Investments filed a Rule 17a-11(b) Net Capital Deficiency Financial Notice with FINRA that indicated that the Firm had a net capital deficiency of $7,766 on the most recent date of deficiency, and had been operating with deficient net capital for a period of nearly a month.

267. The Firm's expenditures had exceeded its revenue from July 1, 2012 through July 24, 2012.

268. The Firm conducted a securities business with deficient net capital from July 1, 2012 through July 24, 2012.

269. On or about August 17, 2012, John Carris Investments filed another Rule 17a-11(b) Net Capital Deficiency Financial Notice with FINRA that indicated the Firm had a net capital deficiency of $10,438 on the most recent date of deficiency, and had been operating with deficient net capital on August 6, 2012.

270. The Firm's operating expenditures had exceeded its revenue on August 6, 2012.

271. The Firm conducted a securities business with deficient net capital on August 6, 2012.

272. On each of the above dates, John Carris Investments used the instrumentalities of interstate commerce to conduct a securities business while failing to maintain its required net capital.

273. By means of the foregoing conduct, Respondent George Carris violated FINRA Rule 2010 by causing John Carris Investments to operate with deficient net capital in violation of SEC Rule 15c-3, *et seq*. In addition, John Carris Investments operated without sufficient net capital during that same time period, and thereby willfully violated Securities Exchange Act of 1934 § 15 and SEC Rule 15c-3, *et seq*. thereunder and FINRA Rule 2010.

ELEVENTH CAUSE OF ACTION

Failure to Observe High Standards of Commercial Honor and Just and Equitable Principles of Trade for Failure to Remit Payroll Taxes to the US Treasury Violation of FINRA Rule 2010 (Respondents George Carris and John Carris Investments)

274. The Department realleges and incorporates by reference paragraphs 1-273 above.

275. During 2011 and 2012, John Carris Investments caused its employees to receive bi-weekly payroll using a third-party payroll service that was retained by John Carris Investments. John Carris Investments' payroll records, including individual payroll statements and year-end tax reporting forms that were provided to employees indicated that federal, state, and local payroll taxes were withheld from each employee's gross wages.

276. The Firm was responsible for remitting to federal and state taxing authorities, on an ongoing basis, payroll taxes that the Firm had withheld from its employees.

277. During 2011 and 2012, John Carris Investments repeatedly failed to remit its employees' payroll taxes to the United States Treasury as they became due, despite representing to its employees, through their payroll statements and year ending tax

forms, that the Firm had withheld such funds from their gross wages for the purpose of remitting payroll taxes.

278. By October 2011, John Carris Investments had failed to remit over $600,000 to the United States Treasury and other taxing authorities on behalf of its employees. By December 31, 2011, John Carris Investments owed $626,361 in unpaid payroll taxes. The Firm had approximately 50 employees during December 2012.

279. As of December 31, 2012, the Firm still owed $536,930 in unpaid payroll taxes.

280. By means of the foregoing conduct, Respondents George Carris and John Carris Investments violated FINRA Rule 2010.

RELIEF REQUESTED

WHEREFORE, the Department respectfully requests that the Panel:

A. make findings of fact and conclusions of law that Respondents committed the violations charged and alleged herein;

B. order that one or more of the sanctions provided under FINRA Rule 8310(a) be imposed;

C. order that Respondents bear such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330;

D. make specific findings that Respondents George Carris, Jason Barter and John Carris Investments willfully violated Securities Exchange Act of 1934 § 10(b), Rule 10b-5 thereunder, and John Carris Investments willfully violated Securities Exchange Act of 1934 § 17, Rule 17a-3 thereunder, and Securities Exchange Act of 1934 § 15, and Rule 15c-3 *et seq*. thereunder; and

E. make specific findings that Respondent George Carris willfully aided and abetted John Carris Investments' willful violations of Securities Exchange Act of 1934 § 10(b), and Rule 10b-5 thereunder.

FINRA DEPARTMENT OF ENFORCEMENT

Date: September 30, 2013

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