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 *
IN THE MATTER OF: *
 *
ADAM WESTPHALEN *
CRD NO. 2821723 *
 *
MOSAIC FINANCIAL STRATEGIES LLC *
f/k/a MOSAIC PORTFOLIO *
STRATEGISTS LLC *
CRD NO. 149364 *
 *
MOSAIC FINANCIAL STRATEGIES LLC *
d/b/a MOSAIC ADVISORY PARTNERS *
CRD NO. 288997 *
 *
(Collectively, “Respondents”) *
 *

**AMENDED AND RESTATED
 ORDER TO CEASE AND DESIST**

**AMENDED AND RESTATED
 ORDER TO MAKE RESTITUTION**

**AMENDED AND RESTATED
 NOTICE OF INTENT TO DENY
 REGISTRATIONS AS AN
 INVESTMENT ADVISER AND
 AS AN INVESTMENT ADVISER
 AGENT**

**AMENDED AND RESTATED
 NOTICE OF INTENT TO FINE**

AND

NOTICE OF RIGHT TO HEARING

DOCKET NO. CRNDF-19-8408-S

I. AMENDED AND RESTATED PRELIMINARY STATEMENT

1. The Banking Commissioner (“Commissioner”) is charged with the administration of Chapter 672a of the General Statutes of Connecticut, the Connecticut Uniform Securities Act (“Act”), and Sections 36b-31-2 to 36b-31-33, inclusive, of the Regulations of Connecticut State Agencies (“Regulations”) promulgated under the Act.

2. Pursuant to Sections 36b-8 and 36b-26(a) of the Act, the Commissioner, through the Securities and Business Investments Division (“Division”) of the Department of Banking, has conducted an investigation into the activities of Respondents to determine if Respondents have violated, are violating or are about to violate provisions of the Act or Regulations (“Investigation”).

3. As a result of the Investigation, the Commissioner has reason to believe that Respondents have violated certain provisions of the Act and Regulations.

4. As a result of the Investigation, the Commissioner has the authority to issue a cease and desist order against Respondents pursuant to Section 36b-27(a) of the Act

5. As a result of the Investigation, the Commissioner has reason to believe that a basis exists to order that Respondents make restitution pursuant to Section 36b-27(b) of the Act.

6. As a result of the Investigation, the Commissioner has the authority pursuant to Section 36b-15 (a) of the Act to deny the registration of Mosaic Financial Strategies LLC d/b/a Mosaic Advisory Partners as an investment adviser and to deny the investment adviser agent registration of Adam Westphalen.

7. As a result of the Investigation, the Commissioner has the authority to impose a fine upon Respondents pursuant to Section 36b-27(d) of the Act.

8. As a result of the Investigation, on March 11, 2019, the Commissioner, acting pursuant to Section 36b-27 of the Act, issued an Order to Cease and Desist, Order to Make Restitution, Notice of Intent to Deny Registrations as an Investment Adviser and as an Investment Adviser Agent, Notice of Intent to Fine and Notice of Right to Hearing (collectively, "Order and Hearing Notice") against Respondents, which Order and Hearing Notice is hereby amended and superseded.

9. On April 1, 2019, Respondents requested a hearing on the allegations set forth in the Order and Hearing Notice. The hearing is scheduled for May 30, 2019.

10. Section 36b-31(a) of the Act authorizes the Commissioner to "make [and] amend . . . such . . . orders as are necessary to carry out the provisions of sections 36b-2 to 36b-34, inclusive . . ."

11. Section 36a-1-22 of the Regulations provides, in pertinent part, that:

The commissioner may amend the notice of hearing at any stage of the contested case prior to the close of evidence. The presiding officer shall provide parties . . . with notice of the amendment and shall provide them with sufficient time to prepare their case in light of the amendment. A party that has requested a hearing on the original notice need not request a hearing on the amended notice and any such hearing shall proceed on the amended notice as if it were the original notice.

II. RESPONDENTS

12. Mosaic Portfolio Strategists LLC is a Connecticut limited liability company formed on December 24, 2008. On October 12, 2012, Mosaic Portfolio Strategists LLC filed with the Connecticut Secretary of the State to change the firm's name to Mosaic Financial Strategies LLC. Mosaic Portfolio Strategists LLC and Mosaic Financial Strategies LLC are collectively referred to herein as "Mosaic". Mosaic was registered as an investment adviser under the Act from April 28, 2009 to December 31, 2014 under Central Registration Depository ("CRD") Number 149364. Mosaic also did business as Mosaic College Planners from approximately 2013 to approximately 2016.

13. Adam Westphalen ("Westphalen") is an individual whose address last known to the Commissioner is 40 Maple Road, Easton, Connecticut 06612. Westphalen was registered as a broker-dealer agent under the Act during various times from November 13, 1996 to June 25, 2007. Westphalen was also registered as an investment adviser agent of Mosaic from April 28, 2009 through December 31, 2014. Westphalen is the sole managing member and control person of Mosaic. Westphalen has also been certified as a Certified Financial Planner with the Certified Financial Planner Board of Standards, Inc. since September 8, 2003.

14. On June 26, 2017, Mosaic reapplied for investment adviser registration under the Act under CRD number 288997. The firm's Form ADV (Uniform Application for Investment Adviser Registration) filing indicated that, while the firm's full legal name was "Mosaic Financial Strategies LLC", the firm would be conducting its advisory business under the name "Mosaic Advisory Partners". On October 17, 2017, Westphalen reapplied for registration as an investment adviser agent of Mosaic under the Act.

15. On January 18, 2018, prior to its investment adviser application being made effective, Mosaic filed a Form ADV-W (Notice of Withdrawal from Registration as an Investment Adviser) seeking to withdraw its state registration application. The Form ADV-W stated that the firm had ceased conducting advisory business in Connecticut as of December 31, 2017 to "focus on non-advisory activities."

III. STATEMENT OF FACTS

Background

16. From approximately 2004 to the present, Westphalen has been engaged in and/or has formed multiple businesses. In addition to Mosaic, Westphalen formed Triton Investment Partners LLC, a Connecticut limited liability company formed in 2003 (“Triton”). Westphalen was also actively involved in Vista Financial Strategies LLC, a Connecticut limited liability company formed in 2000 (“Vista Financial”) and Vista Investment Advisors LLC, a Connecticut limited liability company formed in 2000 (“Vista IA”). Vista IA was registered as an investment adviser under the Act at various times between August 2003 and October 2013. Lastly, beginning in approximately 2013, Mosaic began doing business as Mosaic College Planners (“Mosaic College”), discussed in greater detail below.

Mosaic and Westphalen Failed to Make Required Disclosures on Form ADV and Form U4

17. Section 36b-31-14e of the Regulations provides that “[i]f the information contained in any application for registration as [an] . . . investment adviser or investment adviser agent, or in any amendment thereto, is or becomes inaccurate or incomplete in any material respect for any reason, the applicant or registrant shall promptly file a correcting amendment with the commissioner.”

18. While Mosaic and Westphalen were registered under the Act as an investment adviser and investment adviser agent, respectively, they were each involved and/or affiliated with one or more of the following: Triton, Vista Financial and Mosaic College Planners (all non-respondents).

19. Form ADV requires the disclosure of other business activities and the disclosure of all financial industry affiliations and activities. Form U4 (Uniform Application for Securities Industry Registration or Transfer) requires that investment adviser agents disclose any “Other Business”. Mosaic and Westphalen failed to disclose their involvement in Triton, Vista Financial and Mosaic College Planners on their respective Form ADV or Form U4 on either the original filing in 2009 or by a subsequent amendment.

Unregistered Investment Advisory Activities

20. Mosaic and Westphalen's investment adviser and investment adviser agent registrations under the Act terminated for nonrenewal on December 31, 2014.

21. In 2010, 2013 and 2017, three clients of a broker-dealer registered in Connecticut ("Broker-dealer X") (non-respondent) designated Mosaic as the investment adviser for their accounts. Specifically, on September 21, 2010, November 7, 2013 and April 4, 2017, the three Broker-dealer X clients signed a "Discretionary Trading Authorization Agreement for Advisor and Request to Send Trade Confirmations and Account Statements to Advisor" ("Discretionary Agreement"), that provided that: (i) "Mosaic Portfolio Strategists LLC" was the investment adviser for these accounts; (ii) the "Customer requests and authorizes [Broker-dealer X] to deduct from Customer's [Broker-dealer X] account Advisory Fees . . . and to disburse those Fees directly to the Advisor," and (iii) "Customer requests that [Broker-dealer X] send all trade confirmations and account statements directly to Advisor and not to Customer directly." The first two of these Discretionary Agreements were signed while Mosaic and Westphalen were registered as an investment adviser and investment adviser agent under the Act and the third was signed over three years after their registrations expired (in April 2017). Mosaic and Westphalen collected advisory fees from these three accounts through approximately July 2017 – long after their respective registrations with the Division expired on December 31, 2014.

22. In approximately 2016, Westphalen, individually and through Mosaic, began a business relationship with a New York based investment advisory firm ("New York IA") (non-respondent). Westphalen, individually and through Mosaic, created an investment model and provided it to the New York IA to use for its advisory clients. In 2016, 2017 and 2018, in exchange for providing this investment model and based on the advisory fee the New York IA charged to its clients, the New York IA paid Westphalen and Mosaic a fee. Westphalen and Mosaic received these fees without being registered as an investment adviser agent and/or an investment adviser under the Act.

Mosaic d/b/a Mosaic College Planners - Investor A and Investor B

23. In approximately 2013, Mosaic, while it was registered as an investment adviser under the Act and in addition to its other activities, began doing business as Mosaic College Planners. The purpose of Mosaic College Planners was to help individuals and families financially prepare for college.

24. In March 2013, a Connecticut couple (“Investor A”) entered into an agreement with Mosaic College Planners for its services and paid Westphalen a fee of \$3,000. Westphalen, through Mosaic College Planners, solicited Investor A to invest in an oil and gas investment called “Omni Oil and Gas, Inc.” (“Omni Securities”) based in Texas. On October 20, 2014, based on Westphalen’s solicitation and representations regarding Omni Securities, Investor A invested \$67,500 in a percentage of working interests in Omni Securities. Such working interest is considered a security under the Act, which security was not registered in Connecticut under Section 36b-16 of the Act nor was it the subject of a filed exemption claim or claim of covered security status.

25. To date, Investor A has received approximately \$7,500 back from its investment in Omni Securities.

26. In April 2013, another Connecticut couple (“Investor B”) entered into an agreement with Mosaic College Planners for its services and paid Westphalen a fee of \$3,600. Westphalen, through Mosaic College Planners, solicited Investor B to invest in Omni Securities. On November 15, 2014, based on Westphalen’s solicitation and representations regarding Omni Securities, Investor B invested \$67,500 in a percentage of working interests in Omni Securities. Such working interest is considered a security under the Act, which security was not registered in Connecticut under Section 36b-16 of the Act nor was it the subject of a filed exemption claim or claim of covered security status.

27. To date, Investor B has received approximately \$7,600 back from its investment in Omni Securities

28. In 2013 and 2014, Mosaic, while registered as an investment adviser under the Act, failed to disclose on its Form ADV its involvement with Mosaic College Planners and Omni Securities.

Triton Investment Partners LLC and Investor C

29. Triton Investment Partners LLC (“Triton”) is a now defunct Connecticut limited liability company formed by Westphalen on April 14, 2003 and dissolved on August 17, 2017.

30. Investor C is an individual residing in Pennsylvania. Investor C’s wife and Westphalen’s wife are cousins. Through this familial connection, in approximately 2004, Westphalen began to manage a portion of Investor C’s retirement funds.

31. In approximately September 2008, Westphalen encouraged and solicited Investor C to invest all or mostly all of Investor C’s retirement monies in Triton. On October 25, 2008, Investor C invested \$185,000 in Triton. The investment was evidenced by a promissory note signed by Westphalen (“Triton Securities”). The Triton Securities were not registered in Connecticut under Section 36b-16 of the Act, nor were they exempt from registration under Section 36b-21 of the Act, nor were they the subject of a filed exemption claim or claim of covered security status. Thereafter, Investor C invested additional monies in Triton Securities, and rolled the original \$185,000 into subsequent promissory notes, culminating in a promissory note dated April 18, 2011 for \$273,209, which was due to be paid in full on or before May 1, 2014. In addition to Investor C, at least six other individuals outside of Connecticut invested in Triton Securities, which investments were also evidenced by promissory notes with Triton.

32. In connection with Investor C’s investment in Triton, Westphalen, individually and/or on behalf of Triton, failed to provide Investor C with any offering documents, such as a private placement memorandum, or any other written information relating to Triton’s financial condition, the specific risks associated with investing in Triton or how the investment monies would be used by Triton.

33. In May 2017, Westphalen represented to Investor C in an email that the current account value of Investor C’s monies in Triton Securities and/or held with Westphalen were “north of \$500k”. To date, despite multiple requests to Westphalen and Triton, Investor C has not received any monies in return for his investment in Triton Securities.

Mosaic Financial Strategies LLC d/b/a Mosaic Advisory Partners

34. In connection with its June 26, 2017 reapplication for investment adviser registration, Mosaic filed with the Commissioner a Connecticut Supplement form. This form, signed by Westphalen as “Managing Member (Partner)” of Mosaic, represented among other things, that “[t]he undersigned certifies, on behalf of the above Applicant, that the Applicant has not rendered investment advisory services to any Connecticut resident, and if the Applicant is based in Connecticut, that the Applicant has not rendered investment advisory services from Connecticut to residents of any other jurisdiction.” This statement was materially incomplete and materially false and misleading at the time of the filing. In actuality, Mosaic had been engaging in investment advisory services from 2014 through 2017, as detailed in paragraphs 16 through 27, inclusive, above.

35. As part of the Investigation, on February 13, 2018, Westphalen provided on the record testimony to the Division on behalf of himself individually and on behalf of Mosaic (“Westphalen OTR 2018”). During the Westphalen OTR 2018, Westphalen made statements, including several representations regarding whether he, individually and/or on behalf of Mosaic, engaged in investment advisory business in Connecticut after December 2014. Among other things, Westphalen stated that (i) Mosaic was not a party to any investment management agreements in the State of Connecticut during the time period in question; and (ii) when asked whether he, after January 1, 2015, “advised clients, for compensation . . . within or from Connecticut”, Westphalen responded “No.”

36. These statements were false and misleading. In actuality, Westphalen and Mosaic had been transacting investment advisory business in exchange for a fee in Connecticut from 2014 through 2017, as detailed in paragraphs 16 through 27, inclusive, above.

Failure to Produce Subpoenaed Documents and
Appear for Testimony Pursuant to Subpoena

37. As part of the Division’s Investigation, on January 12, 2018, the Division issued subpoenas duces tecum to each Respondent (“First Subpoenas”). The First Subpoenas sought the production of documents, including but not limited to: any financial planning or investment adviser agreements and any

documents relating thereto, financial institution account records, a list of clients who received financial planning, college financial planning or investment advisory services, and a list of fees earned from these clients. To date, Westphalen and Mosaic have failed to provide the Division with any documents responsive to the First Subpoenas.

38. On December 7, 2018, the Division issued an additional subpoena to Westphalen seeking the production of documents related to, *inter alia*, the businesses of Triton and Westphalen's connection therewith ("Second Subpoena"). The Second Subpoena also directed Westphalen to appear for on the record testimony at the Division on December 21, 2018. After several continuance requests by Westphalen, Westphalen appeared for on the record testimony at the Division on February 27, 2019 ("Westphalen 2019 OTR").

39. At Westphalen's 2019 OTR, Westphalen produced some documents responsive to the subpoena. However, Westphalen has, to date, failed to produce any documents in response to many of the Second Subpoena's document requests.

40. Mosaic's failure to produce documents in response to the First Subpoenas and Westphalen's failure to produce documents in response to either the First Subpoenas or the Second Subpoena provide a basis for the denial of Mosaic's investment adviser registration and Westphalen's investment adviser agent registration pursuant to Section 36b-15(a)(2)(L) of the Act. Section 36b-15(a) of the Act provides in pertinent part that:

The commissioner may, by order, deny . . . any registration . . . if the commissioner finds that (1) the order is in the public interest, and (2) the applicant . . . or, in the case of . . . [an] investment adviser, any partner, officer, or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the . . . investment adviser . . . (L) in connection with any investigation conducted pursuant to section 36b-26 . . . has made any material misrepresentation to the commissioner or upon request made by the commissioner, has withheld or concealed material information from, or refused to furnish material information to the commissioner

41. A portion of the material information requested by the Commissioner was contained in advisory books and records that Mosaic was required by law to keep in conjunction with its prior

investment adviser registration. Section 36b-14 of the Act and Section 36b-31-14b(a) of the Regulations require state registered investment advisers to keep and maintain “the books and records required to be kept by the Investment Advisers Act of 1940, as amended, and the rules and regulations thereunder.” Section 36b-31-14b(a) of the Regulations adds that such books and records “shall be preserved for such periods of time and in such places as specified by the Investment Advisers Act of 1940, as amended, and the rules and regulations thereunder.” Rule 204-2 under the Investment Advisers Act of 1940 generally prescribes a five year retention period commencing on “the end of the fiscal year during which the last entry was made on such record.” Rule 204-2(f) under the Investment Advisers Act of 1940 provides, in part, that “An investment adviser subject to [the recordkeeping requirements in] paragraph (a) of this section, before ceasing to conduct or discontinuing business as an investment adviser shall arrange for *and be responsible for the preservation of the books and records required to be maintained and preserved under this section for the remainder of the period specified in this section . . .*” (Emphasis supplied)

Although Mosaic’s investment adviser registration terminated for nonrenewal on December 31, 2014, it was required to retain its advisory records for the time prescribed by Section 36b-31-14b(a) of the Regulations and Rule 204-2 under the Investment Advisers Act of 1940.

**IV. STATUTORY AND REGULATORY BASIS FOR
AMENDED AND RESTATED ORDER TO CEASE AND DESIST, AMENDED AND RESTATED
ORDER TO MAKE RESTITUTION, AMENDED AND RESTATED DENIAL OF
REGISTRATIONS AS AN INVESTMENT ADVISER AND AS AN INVESTMENT ADVISER
AGENT AND AMENDED AND RESTATED ORDER IMPOSING FINE**

a. Violation of Section 36b-31-14e of the Regulations by Mosaic and Westphalen –
Failure to Promptly File a Correcting Amendment

42. Paragraphs 1 through 41, inclusive, are incorporated and made a part hereof as if more fully set forth herein.

43. Mosaic and Westphalen failed to amend one or more of their Form ADV and Form U4 filings, respectively, on file with the Commissioner to disclose (i) in the case of Mosaic, other business activities and financial industry affiliations and activities; and (ii) in the case of Westphalen, other business, all as more fully described in paragraphs 17 through 19, inclusive. Such conduct constitutes a violation of

Section 36b-31-14e(a) of the Regulations, which forms a basis for an order to cease and desist to be issued against Mosaic and Westphalen pursuant to Section 36b-27(a) of the Act, the imposition of a fine upon Mosaic and Westphalen pursuant to Section 36b-27(d) of the Act and, as wilful misconduct, a basis for denying the registrations of Mosaic and Westphalen as an investment adviser and investment adviser agent, respectively, under Section 36b-15(a)(2)(B) of the Act.

b. Violation of Section 36b-6(c)(1) of the Act by Mosaic –
Unregistered Investment Adviser

44. Paragraphs 1 through 43, inclusive, are incorporated and made a part hereof as if more fully set forth herein.

45. Mosaic transacted business as an investment adviser in Connecticut absent registration, as more fully described in paragraphs 20 through 28, inclusive. Such conduct constitutes a violation of Section 36b-6(c)(1) of the Act, which forms a basis for an order to cease and desist to be issued against Mosaic under Section 36b-27(a) of the Act, the imposition of a fine upon Mosaic under Section 36b-27(d) of the Act, and, as wilful misconduct, constitutes grounds for the denial of Mosaic's investment adviser registration in Connecticut pursuant to Section 36b-15(a)(2)(B) of the Act.

c. Violation of Section 36b-6(c)(2) of the Act by Westphalen –
Unregistered Investment Adviser Agent

46. Paragraphs 1 through 45, inclusive, are incorporated and made a part hereof as if more fully set forth herein.

47. Westphalen transacted business as an investment adviser agent of Mosaic in Connecticut absent registration, as more fully described in paragraphs 20 through 28, inclusive. Such conduct constitutes a violation of Section 36b-6(c)(2) of the Act, which forms a basis for an order to cease and desist to be issued against Westphalen under Section 36b-27(a) of the Act, the imposition of a fine upon Westphalen under Section 36b-27(d) of the Act and, as wilful misconduct, constitutes grounds for the denial of Westphalen's investment adviser agent registration in Connecticut pursuant to Section 36b-15(a)(2)(B) of the Act.

d. Violation of Section 36b-16 of the Act by Westphalen – Offer and/or Sale of Unregistered Securities

48. Paragraphs 1 through 47, inclusive, are incorporated and made a part hereof as if more fully set forth herein.

49. Westphalen offered and/or sold securities from Connecticut to at least one investor, which securities were not registered in Connecticut under the Act nor the subject of a filed exemption claim or claim of covered security status, as more fully described in paragraphs 23 through 33, inclusive. The offer and/or sale of such securities absent registration constitutes a violation of Section 36b-16 of the Act, which forms a basis for an order to cease and desist to be issued against Westphalen under Section 36b-27(a) of the Act, an order of restitution to be issued against Westphalen under Section 36b-27(b) of the Act, the imposition of a fine upon Westphalen under Section 36b-27(d) of the Act, and, as willful misconduct, constitutes grounds for the denial of Westphalen's investment adviser agent registration in Connecticut pursuant to Section 36b-15(a)(2)(B) of the Act.

e. Violation of Section 36b-6(a) of the Act by Westphalen – Unregistered Agent of Issuer Activity

50. Paragraphs 1 through 49, inclusive, are incorporated and made a part hereof as if more fully set forth herein.

51. Westphalen transacted business as an agent of issuer of Omni and Triton in Connecticut absent registration, as more fully described in paragraphs 24, 26 and 31. Such conduct constitutes a violation of Section 36b-6(a) of the Act, which forms a basis for an order to cease and desist to be issued against Westphalen under Section 36b-27(a) of the Act, the imposition of a fine upon Westphalen under Section 36b-27(d) of the Act, and, as willful misconduct, constitutes grounds for the denial of Westphalen's investment adviser agent registration in Connecticut pursuant to Section 36b-15(a)(2)(B) of the Act.

f. Violation of Section 36b-4(a) of the Act by Westphalen –
Fraud in Connection with the Offer and Sale of any Security

52. Paragraphs 1 through 51, inclusive, are incorporated and made a part hereof as if more fully set forth herein.

53. The conduct of Westphalen, as more fully described in paragraphs 23 through 33, inclusive, constitutes, in connection with the offer, sale or purchase of any security, directly or indirectly employing a device, scheme or artifice to defraud, making an untrue statement of a material fact or omitting to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, or engaging in an act, practice or course of business which operates or would operate as a fraud or deceit upon any person. Such conduct constitutes a violation of Section 36b-4(a) of the Act, which forms a basis for an order to cease and desist to be issued against Westphalen under Section 36b-27(a) of the Act, an order of restitution to be issued against Westphalen under Section 36b-27(b) of the Act, the imposition of a fine upon Westphalen under Section 36b-27(d) of the Act, and, as willful misconduct, constitutes grounds for the denial of Westphalen's investment adviser agent registration in Connecticut pursuant to Section 36b-15(a)(2)(B) of the Act.

g. Material Misleading Statements Made to the Division by Mosaic and Westphalen

54. Paragraphs 1 through 53, inclusive, are incorporated and made a part hereof as if more fully set forth herein.

55. In connection with its June 26, 2017 investment adviser registration application, Mosaic filed with the Commissioner a Connecticut Supplement form containing a statement, as more fully described in paragraph 34, which was, at the time and in light of the circumstances under which it was made, false or misleading in a material respect. In addition, during on the record testimony given to the Division on February 13, 2018, Westphalen, on his individual behalf and/or on behalf of Mosaic, as more fully described in paragraphs 35 and 36, made certain statements on the record which were, at the time and in the light of the circumstances under which they were made, false or misleading in a material respect. These statements constitute a violation of Section 36b-23 of the Act, which forms a basis for an order to

cease and desist to be issued against Westphalen and Mosaic pursuant to Section 36b-27(a) of the Act, the imposition of a fine upon Westphalen and Mosaic pursuant to Section 36b-27(d) of the Act, and, as wilful misconduct, a basis for the denial of Westphalen's registration as an investment adviser agent and Mosaic's registration as an investment adviser in Connecticut, respectively, pursuant to Section 36b-15(a)(2)(B) of the Act. In addition, such conduct supports the denial of Respondents' investment adviser and investment adviser agent registrations, respectively, under 36b-15(a)(2)(L) of the Act, and, with respect to the Connecticut Supplement misrepresentations, a basis for denial proceedings under Section 36b-15(a)(2)(A) of the Act.

h. Violation of Section 36b-14(a)(1) of the Act and
Section 36b-31-14b(a) of the Regulations by Mosaic –
Failure to Retain Required Advisory Records

56. Paragraphs 1 through 55, inclusive, are incorporated and made a part hereof as if more fully set forth herein.

57. Mosaic's failure to retain its investment advisory records in accordance with legal requirements, s more fully described in paragraphs 37 through 41, inclusive, constitutes a violation of Section 36b-14(a)(1) of the Act and Section 36b-31-14b(a) of the Regulations. Such violation forms a basis for an order to cease and desist to be issued against Mosaic pursuant to Section 36b-27(a) of the Act, the imposition of a fine upon Mosaic pursuant to Section 36b-27(d) of the Act and, as willful misconduct, the denial of Mosaic's investment adviser registration in Connecticut pursuant to Section 36b-15(a)(2)(B) of the Act.

**V. AMENDED AND RESTATED ORDER TO CEASE AND DESIST, AMENDED AND
RESTATED ORDER TO MAKE RESTITUTION, AMENDED AND RESTATED NOTICE OF
INTENT TO DENY REGISTRATIONS AS AN INVESTMENT ADVISER AND AS AN
INVESTMENT ADVISER AGENT, AND AMENDED AND RESTATED NOTICE OF INTENT
TO FINE AND NOTICE OF RIGHT TO HEARING**

WHEREAS, as a result of the Investigation, the Commissioner finds that, with respect to the activity described herein, **ADAM WESTPHALEN** has committed at least one violation of Section 36b-31-14e of the Regulations, at least one violation of Section 36b-6(c)(2) of the Act, at least

one violation of Section 36b-16 of the Act, at least one violation of Section 36b-6(a) of the Act, at least one violation of Section 36b-4(a) of the Act and at least one violation of Section 36b-23 of the Act;

WHEREAS, as a result of the Investigation, the Commissioner further finds that a basis exists to deny the investment adviser agent registration of Westphalen pursuant to Sections 36b-15(a)(2)(A), 36b-15(a)(2)(B) and 365b-15(a)(2)(L) of the Act;

WHEREAS, as a result of the Investigation, the Commissioner finds that, with respect to the activity described herein, **MOSAIC** has committed at least one violation of Section 36b-31-14e of the Regulations, at least one violation of Section 36b-6(c)(1) of the Act, at least one violation of Section 36b-23 of the Act, at least one violation of Section 36b-14(a)(1) of the Act and at least one violation of Section 36b-31-14b(a) of the Regulations;

WHEREAS, as a result of the Investigation, the Commissioner further finds that grounds exist to deny Mosaic's investment adviser registration pursuant to Sections 36b-15(a)(2)(A), 36b-15(a)(2)(B) and 36b-15(a)(2)(L) of the Act;

WHEREAS, the Commissioner further finds that the issuance of an Order denying Respondents' registrations as an investment adviser and an investment adviser agent, respectively, an Order to Cease and Desist, an Order to Make Restitution, and the imposition of a fine upon Respondents is necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by the policies and provisions of the Act;

WHEREAS, notice is hereby given to Mosaic that its registration as an investment adviser in Connecticut shall be denied, subject to its right to request a hearing on the allegations set forth above;

WHEREAS, notice is hereby given to Westphalen that his registration as an investment adviser agent in Connecticut shall be denied, subject to his right to request a hearing on the allegations set forth above;

WHEREAS, notice is hereby given to each Respondent that the Commissioner intends to impose a maximum fine not to exceed one hundred thousand dollars (\$100,000) per violation upon each Respondent;

WHEREAS, the Commissioner **ORDERS** that **ADAM WESTPHALEN CEASE AND DESIST** from directly or indirectly violating the provisions of the Act, including without limitation: (1) failing to promptly filing a correcting amendment on his Form U4; (2) transacting business as an investment adviser agent in Connecticut absent registration under the Act; (3) offering and selling unregistered securities in or from Connecticut; (4) transacting business as an unregistered agent of issuer in Connecticut; (5) in connection with the offer, sale or purchase of any security, directly or indirectly employing a device, scheme or artifice to defraud, making an untrue statement of a material fact or omitting to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, or engaging in an act, practice or course of business which operates or would operate as a fraud or deceit upon any person; and (6) making statements to the Commissioner that are, at the time and in light of the circumstances under which they are made, false or misleading in any material respect;

WHEREAS, the Commissioner **ORDERS** that **MOSAIC CEASE AND DESIST** from directly or indirectly violating the provisions of the Act, including without limitation: (1) failing to promptly filing a correcting amendment on its Form ADV; (2) transacting business as an investment adviser in Connecticut absent registration; (3) filing a document with the Commissioner that contains statements that, at the time and in light of the circumstances under which they are made, are false or misleading in a material respect; (4) failing to preserve its advisory records for the periods prescribed by law; and (5) withholding or concealing material information from, or refusing to furnish material information to, the commissioner in connection with an investigation conducted pursuant to section 36b-26 of the Act;

WHEREAS, the Commissioner **ORDERS** that Respondents **MAKE RESTITUTION** of any sums obtained as a result of their violations of Sections 36b-16 and 36b-4(a) of the Act, plus interest at the legal rate set forth in Section 37-1 of the General Statutes of Connecticut. Specifically, the Commissioner **ORDERS** that:

1. Within thirty (30) days from the date this Order to Make Restitution becomes permanent, Respondents shall provide the Division with a written disclosure which contains (a) the name and address of each investor who purchased Triton Securities and/or Omni Securities through

any of the Respondents, (b) the amount of the investments, and (d) the amount of any refund of each investor's monies to date;

2. Within forty-five (45) days from the date this Order to Make Restitution becomes permanent, Respondents shall reimburse each investor the amount of his/her investment in Triton Securities or Omni Securities plus interest, less the amount of any refund returned to the investor to date. Such restitution shall be made by certified check, and shall be sent by certified mail, return receipt requested, to each affected investor; and
3. Within ninety days (90) days from the date this Order to Make Restitution becomes permanent, Respondents shall provide the Division with proof in the form of copies of the certified checks and the return receipts required by paragraph 2 of this section that Respondents have reimbursed each investor the amounts set forth in paragraph 2 of this section.

THE COMMISSIONER FURTHER ORDERS THAT, pursuant to Sections 36b-15(f) and 36b-27 of the Act, each Respondent will be afforded an opportunity for a hearing on the allegations set forth above.

The hearing will be held in accordance with the provisions of Chapter 54 of the General Statutes of Connecticut. At such hearing, Respondents will have the right to appear and present evidence, rebuttal evidence and argument on all issues of fact and law to be considered by the Commissioner.

If any Respondent fails to appear at any such hearing, the allegations herein against any such Respondent will be deemed admitted. Accordingly, the Amended and Restated Order to Cease and Desist and Amended and Restated Order to Make Restitution shall remain in effect and become permanent against any such Respondent, the Commissioner may order that the maximum fine be imposed upon any such Respondent and the Commissioner shall issue an order denying the respective Respondent's registration as an investment adviser or as an investment adviser agent, as the case may be.

Dated at Hartford, Connecticut,
this 10th day of May 2019.

_____/s/_____
Jorge L. Perez
Banking Commissioner

CERTIFICATION

I hereby certify that on this 10th day of May 2019, I caused to be mailed by certified mail, return receipt requested, the foregoing Amended and Restated Order to Cease and Desist, Amended and Restated Order to Make Restitution, Amended and Restated Notice of Intent to Deny Registrations as an Investment Adviser and as an Investment Adviser Agent, Amended and Restated Notice of Intent to Fine and Notice of Right to Hearing to: Adam Westphalen, 40 Maple Road, Easton, Connecticut 06612, certified mail no. 7014 2120 0000 3701 2563; Mosaic Financial Strategies LLC f/k/a Mosaic Portfolio Strategists LLC, c/o Adam Westphalen, 40 Maple Road, Easton, Connecticut 06612, certified mail no. 7014 2120 0000 3701 2556; Mosaic Financial Strategies LLC d/b/a Mosaic Advisory Partners, c/o Adam Westphalen, 40 Maple Road, Easton, Connecticut 06612, certified mail no. 7014 2120 0000 3701 2570; and a copy to be hand delivered to Jeffrey Schuyler, Staff Attorney, State of Connecticut, Department of Banking, 260 Constitution Plaza, Hartford, Connecticut 06103-1800.

_____/s/_____
Christopher Cartelli
Paralegal