

# Disciplinary and Other FINRA Actions

## Firms Fined, Individuals Sanctioned

**Fox Financial Management Corporation (CRD® #134277, Carrollton, Texas) and James Edward Rooney Jr. (CRD #1857754, Registered Principal, Carrollton, Texas)** submitted an Offer of Settlement in which the firm was censured and fined \$40,000, and Rooney was fined \$20,000 and suspended from association with any FINRA member in any principal capacity for 15 business days. Without admitting or denying the allegations, the firm and Rooney consented to the described sanctions and to the entry of findings that the firm, acting through Rooney, sold zero-coupon bonds to customers and negligently omitted material facts concerning the fund's manager, who the State of Texas had charged with forgery of a financial instrument, and was sentenced to five years deferred adjudication and had been the subject of a Temporary Order of Prohibition for selling unregistered securities by the State of Illinois.

The findings stated that the firm, acting through Rooney, sold zero-coupon bonds to customers that were secured by interests in life insurance policies, and limited liability companies, which Rooney controlled and were affiliated with the firm, issued the bonds, and negligently omitted material facts to customers relevant to the criminal records of the bonds' manager and owning companies. The findings also stated that the firm, acting through Rooney, participated in private placement offerings of zero-coupon bonds limited liability companies issued, and each of the offerings claimed an exemption from registration under the Securities Act of 1933; however, the offerings were not separate and distinct, and were, therefore, subject to integration, and to the securities registration requirements of public offerings. The findings also included that the firm, acting through Rooney, sold zero-coupon bonds, failed to establish a proper escrow account by using a limited liability company not chartered as a bank as the escrow agent, and falsely represented that customer funds would not be commingled.

FINRA found that Rooney failed to detect that customer funds had been commingled because he had neglected to obtain copies of the escrow account statements and to maintain such statements among the firm's records. FINRA also found that the firm's test of its system of supervisory controls was flawed because it failed to include a review of its private placement business, and Rooney stated in his annual certification of compliance that the firm had established and maintained policies and

## Reported for December 2010

FINRA® has taken disciplinary actions against the following firms and individuals for violations of FINRA rules; federal securities laws, rules and regulations; and the rules of the Municipal Securities Rulemaking Board (MSRB).

procedures reasonably designed to ensure compliance with FINRA rules. In addition, FINRA determined that the firm failed to evidence its supervision over Rooney, in that Rooney was the only principal who had signed Subscription Agreements indicating approval of the customer's investment in an offering.

The suspension is in effect from December 6, 2010, through December 24, 2010. (FINRA Case #2008011592201)

**Global Strategic Investments, LLC (CRD #117028, Miami, Florida) and Cesar Gabriel Hernandez (CRD #3249722, Registered Principal, Miami, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$150,000. Hernandez was fined \$25,000 and suspended from association with any FINRA member in any principal capacity for three months. Without admitting or denying the findings, the firm and Hernandez consented to the described sanctions and to the entry of findings that the firm, acting through Hernandez, failed to adequately implement or enforce its anti-money laundering (AML) compliance program, and to otherwise comply with their AML obligations, by failing to identify and analyze numerous transactions to determine if they were, in fact, suspicious and were required to be reported on a Suspicious Activity Report (Form SAR-SF). The findings stated that the firm and Hernandez permitted foreign customers to deposit funds into their accounts and, within days and/or weeks, disburse funds from their accounts to first and third parties, and in certain instances in amounts slightly below \$10,000; although one customer told Hernandez he did this to avoid questions from his bank, the firm and Hernandez permitted the activity to continue and did not file a Form SAR-SF until approximately one year after the activity occurred. The findings also stated that the firm, acting through Hernandez, failed to establish and implement customer identification procedures (CIP) for verifying a customer's identity.

The suspension is in effect from November 15, 2010, through February 14, 2011. (FINRA Case #2009016158801)

### Firm and Individual Fined

**Donnelly Penman & Partners (CRD #104448, Grosse Pointe, Michigan) and Charles Kirk Haggarty (CRD #2407023, Registered Principal, Grosse Pointe Farms, Michigan)** submitted a Letter of Acceptance, Waiver and Consent in which the firm and Haggarty were censured and fined \$10,000, jointly and severally, and the firm was fined an additional \$10,000. Without admitting or denying the findings, the firm and Haggarty consented to the described sanctions and to the entry of findings that, despite the requirement that it monitor compliance with the requirements of the Bank Secrecy Act, 31 USC 5311, et seq., and the regulations promulgated thereunder, and despite a previous regulatory sanction by FINRA, the firm, acting through Haggarty, continued to fail to conduct and evidence an independent test of its AML program. The findings stated that the firm failed to create a required report, which a principal or principals must submit to its senior management at least annually, detailing each member's system of supervisory controls; a summary of test results to determine whether its supervisory procedures are reasonably designed with respect to the firm's and its registered representatives' and associated persons' activities, to achieve compliance

with applicable securities laws, regulations and rules; and significant identified exceptions and any additional or amended supervisory procedures created in response to the test results. The findings also stated that the firm failed to prepare and execute a Chief Executive Officer (CEO) certification confirming that the firm has processes in place to establish, maintain, review, test and modify written compliance policies and supervision procedures reasonably designed to achieve compliance with applicable FINRA rules, Municipal Securities Rulemaking Board (MSRB) rules and federal securities laws and regulations; and that the CEO has conducted one or more meetings with the chief compliance officer in the preceding 12 months to discuss such processes. **(FINRA Case #2009016347901)**

## Firms Fined

**A&F Financial Securities, Inc. (CRD #44791, Syosset, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$27,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to create and maintain adequate records of customer complaints, failed to report timely statistical and summary information concerning the complaints, and failed to timely report the settlement of one of the complaints. The findings stated that the firm failed to timely update a registered person's Uniform Application for Securities Industry Registration or Transfer (Form U4) upon learning of the facts and circumstances giving rise to the amendments. The findings also stated that the firm failed to implement its own heightened supervisory procedures with respect to registered representatives on heightened supervision. The findings also included that when establishing its heightened supervision procedures, the firm decided to exclude brokers on heightened supervision from its monthly surveillance report; accordingly, the activities of the registered representatives under heightened supervision were not shown.

FINRA found that the special supervisor designated to manually review all trades of registered representatives on heightened supervision for suitability and excessive trading relied on his manual review when determining which accounts should be reviewed and contacted "for cause," rather than choosing clients at random and with cause based on trading activity. FINRA also found that this was inadequate because the manual review failed to identify numerous accounts that had turnover ratios in excess of six times the average equity annualized. **(FINRA Case #2008011649201)**

**Activa Capital Markets, Inc. (CRD #42619, Miami, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$30,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to implement an audit system regarding a third-party vendor's maintenance and preservation of the firm's electronic records, and thus failed to adequately retain and maintain its business-related electronic communications during that period. **(FINRA Case #2009015972001)**

**Albert Fried & Company, LLC (CRD #1914, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described

sanctions and to the entry of findings that it failed to make publicly available a report on the covered orders in national market system securities that it received for execution from any person, in violation of Securities and Exchange Commission (SEC) Rule 605 of Regulation NMS. (FINRA Case #2008014860201)

**A.R. Schmeidler & Co., Inc. (CRD #5845, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$15,000 and required to revise its written supervisory procedures regarding Trade Reporting and Compliance Engine™ (TRACE™) reporting. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report transactions in TRACE-eligible securities to TRACE within 15 minutes of the execution time, and failed to report the correct trade execution time for transactions in TRACE-eligible securities to TRACE. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning TRACE reporting. (FINRA Case #2009017180101)

**B.C. Ziegler and Company (CRD #61, Chicago, Illinois)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report the execution of TRACE-eligible transactions pertaining to certain "church" bonds to TRACE. (FINRA Case #2009016357401)

**Berthel, Fisher & Company Financial Services, Inc. (CRD #13609, Marion, Iowa)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$12,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report the correct trade execution time for certain transactions in TRACE-eligible securities to TRACE. The findings stated that the firm failed to show the correct execution time on brokerage order memoranda for securities transactions. (FINRA Case #2009016255901)

**BTIG, LLC (CRD #122225, San Francisco, California)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$35,000 and required to revise its written supervisory procedures regarding quote dissemination, sales transactions, trade reporting, trading halts and backing away; books and records; and best execution. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to provide the correct symbol indicating the capacity in which it executed transactions in reportable securities when reporting the transactions to the NASDAQ Market Center (NMC), the NASD/NASDAQ Trade Reporting Facility™ (NNTRF) and the FINRA/NASDAQ Trade Reporting Facility (FNTRF). The findings stated that the firm executed short sale transactions and failed to report each of the transactions to the FNTRF with a short sale modifier, and incorrectly reported a clearing-only or non-tape, non-clearing report to the FNTRF, in that the firm incorrectly respectively designated transactions in reportable securities as offsetting, "riskless" portions of "riskless" principal transactions when the full quantity of some of the transactions and a portion of the quantity for the remaining transaction should have been media-reported as principal transactions instead. The findings also stated that the firm executed short sale transactions and failed to report each of the transactions to the Over-the-Counter (OTC™) Reporting

Facility with a short sale modifier. The findings also included that the firm executed short sale and long sale transactions in a principal capacity and failed to properly mark the sales on its securities record or trading ledger.

FINRA found that the firm failed to provide written notification disclosing to its customers its correct capacity in transactions, that transactions were executed at an average price, and provided written notification to its customers that contained an incorrect “commission” disclosure instead of a “commission-equivalent” or other alternative disclosure associated with transactions where the firm acted in a principal or riskless-principal capacity. FINRA also found that the firm’s supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and/or FINRA rules addressing quote dissemination, sales transactions, trade reporting, trading halts and backing away; books and records; and best execution. In addition, FINRA determined that the firm failed to provide documentary evidence that it performed supervisory reviews or aspects of supervisory reviews concerning quote dissemination, backing away, and books and records. **(FINRA Case #2008015067001)**

**Citigroup Global Markets Inc. (CRD #7059, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$400,000 and required to pay \$10,099.99, plus interest, in restitution to customers. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report transactions in TRACE-eligible securities to TRACE within 15 minutes of execution time. The findings stated that the firm failed to report the correct trade time for transactions in TRACE-eligible securities to TRACE, and failed to show the correct execution time on brokerage order memoranda. The findings also stated that the firm failed to fully and promptly execute orders. The findings also included that in transactions for or with a customer, the firm failed to use reasonable diligence to ascertain the best inter-dealer market and failed to buy or sell in such market so that the resultant price to its customer was as favorable as possible under prevailing market conditions.

FINRA found that the firm purchased municipal securities for its own account from a customer and/or sold municipal securities for its own account to a customer at an aggregate price (including any markdown or markup) that was not fair and reasonable, taking into consideration all relevant factors, including the best judgment of the broker, dealer or municipal securities dealer as to the fair market value of the securities at the time of the transaction, and of any securities exchanged or traded in connection with the transaction; the expense involved in effecting the transaction; the fact that the broker, dealer or municipal securities dealer is entitled to a profit; and the total dollar amount of the transaction. FINRA also found that the firm failed to report the correct symbol indicating whether transactions were a buy, sell, sell short or cross for reportable securities transactions to the NMC or the FNTRF; failed to report last sale reports of transactions in designated securities to the NMC or the FNTRF; and failed to report the correct symbol indicating whether a transaction was a buy, sell, sell short, sell short exempt or cross in last sale reports of transactions in alternate display facility (ADF)-eligible securities to the Trade Reporting and Comparison Service (TRACS). In addition, FINRA determined that the firm failed to immediately display customer limit orders in NASDAQ securities in its public quotation, when each such order was at a

price that would have improved the firm's bid or offer in each such security, or when the order was priced equal to the firm's bid or offer and the national best bid or offer for each such security, and the size of the order represented more than a *de minimis* change in relation to the size associated with the firm's bid or offer in each such security. Moreover, FINRA found that the firm failed to transmit Reportable Order Events (ROEs) to the Order Audit Trail System (OATS). Furthermore, FINRA found that the firm transmitted Route or Combined Order/Route Reports to OATS that contained an inaccurate destination code; the firm was named as the "Sent To" firm in Route or Combined Order/Route Reports that OATS was unable to match to the related New Order Report the firm submitted. In addition, FINRA found that the firm failed—prior to executing or permitting limit orders to be executed—to reduce, increase or adjust the price and/or number of shares of such orders by an amount equal to the dividend, payment or distribution, on the day that the security was quoted ex-dividend, ex-rights, ex-distribution or ex-interest. **(FINRA Case #2006004821501)**

**Dougherty & Company LLC (CRD #7477, Minneapolis, Minnesota)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$75,000 and required to pay restitution of \$19,764.46, plus interest, to investors. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it sold (bought) corporate bonds to (from) customers and failed to sell (buy) such bonds at a price that was fair, taking into consideration all relevant circumstances, including market conditions with respect to each bond at the time of the transaction, the expense involved and that the firm was entitled to a profit. The findings stated that the firm failed to fully and promptly execute orders. The findings also stated that in transactions for or with a customer, the firm failed to use reasonable diligence to ascertain the best inter-dealer market and failed to buy or sell in such market so that the resultant price to its customers was as favorable as possible under prevailing market conditions. The findings also included that the firm failed to contemporaneously or partially execute customer limit orders in NASDAQ securities after it traded each subject security for its own market-making account at a price that would have satisfied each customer's limit order. FINRA found that the firm failed to make a report on the covered orders in national market system securities that it received for execution from any person publicly available. **(FINRA Case #2006006276101)**

**Europa Securities, LLC (CRD #28493, Denver, Colorado)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000, after FINRA's consideration of, among other things, the firm's revenues and financial resources. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to maintain books and records that FINRA requested during its routine examination of the firm, including business-related electronic communications, annual compliance meeting records, branch office inspection record, new account forms and customer account files for some customers, customer change of investment objective records, trade confirmations, order tickets for discretionary option accounts, a wire transmittals blotter, a securities-received and forwarded blotter, and a special statement for uncovered options writers that was delivered to a customer. **(FINRA Case #2009016164101)**

**First New York Securities L.L.C. (CRD #16362, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$20,000 and required to revise its written supervisory procedures regarding best execution, sales transactions, OATS and information barriers. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it effected short sales in an equity security for its own account, without borrowing the security or entering in a *bona fide* arrangement to borrow the security, or having reasonable grounds to believe that the security could be borrowed so that it could be delivered on the date delivery is due; and documenting compliance with SEC Rule 203(b)(1) of Regulation SHO. The findings stated that the firm transmitted reports to OATS concerning orders that contained inaccurate, incomplete or improperly formatted data, in that the firm incorrectly denoted proprietary orders and one employee order as “retail” orders; failed to report employee and proprietary orders as separate events or utilize the “combined” account type code; failed to submit New Order Reports and incorrectly submitted Cancel Reports for some of the orders; failed to record route timestamps for orders; and failed to submit a Cancel Report for one of the orders. The findings also stated that the firm’s supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and/or FINRA rules addressing best execution, sales transactions, OATS and information barriers. The findings also included that the firm failed to provide sufficient documentary evidence that it performed the supervisory reviews set forth in its written supervisory procedures concerning information barriers. **(FINRA Case #2008013604501)**

**Fox Chase Capital Partners, LLC (CRD #104087, Metuchen, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report the correct trade execution time for transactions in TRACE-eligible securities to TRACE; and for some, the firm failed to report the transactions within 15 minutes of the execution time. **(FINRA Case #2009019332501)**

**Keybank Capital Markets Inc. (CRD #566, Cleveland, Ohio)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$100,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it underwent a full back-office conversion to a new system for fixed income and back-office processing, and some of the firm’s wash accounts and suspense accounts experienced significant posting problems after the conversion; a number of transactions were posted to multiple wash accounts in error, resulting in reconciling items in the accounts that the firm was not able to pair off. The findings stated that as a result, the wash and suspense accounts contained unresolved differences that were not recognized and classified on the firm’s books and records as suspense items. The findings also stated that any resulting credit balances in the wash and suspense accounts should have been included as aged suspense credits in its customer reserve formula computations, and any resulting debit balances in the accounts should have been included as aged suspense debits in its net capital calculations; the firm eventually reconciled all of the aged suspense items. The findings also included that as a result of not properly recognizing aged reconciling items in some of its suspense and wash accounts, the firm was not taking the appropriate charges for net capital and customer reserve computations.

FINRA found that the firm's failure to include in its customer reserve formula computations these aged suspense and wash account credit and debit items resulted in month-end reserve formula hindsight deficiencies, but did not result in any net capital deficiencies. FINRA also found that because of the adjustments required to its reserve formula computations, its Financial and Operational Combined Uniform Single (FOCUS™) reports for several months were inaccurate. **(FINRA Case #2009018505101)**

**Knight Libertas LLC (CRD #124790, Greenwich, Connecticut)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report the correct contra-party's identifier for transactions in TRACE-eligible securities to TRACE. **(FINRA Case #2009016807901)**

**LavaFlow, Inc. (CRD #120444, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$75,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to transmit the correct capacity to the ADF/TRACS on numerous occasions. **(FINRA Case #2008013432601)**

**Maxim Group LLC (CRD #120708, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$75,000, required to make restitution of \$2,762.96, plus interest, to investors, and to revise its written supervisory procedures regarding order handling, short sale transactions and clearly erroneous trade filings. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that in transactions for or with a customer, it failed to use reasonable diligence to ascertain the best inter-dealer market and buy or sell in such market so that the resultant price to its customers was as favorable as possible under prevailing market conditions. The findings stated that the firm failed to fully and promptly execute orders. The findings also stated that the firm failed, within 90 seconds after execution, to transmit last sale reports of transactions in designated securities to the FNTRF, and failed to designate some of them as late; the firm also incorrectly designated last sale reports of transactions in designated securities as ".PRP" to the FNTRF. The findings also included that the firm failed to timely report ROEs to OATS; transmitted Route or Combined Order/Route Reports to OATS that the OATS system was unable to link to the related order routed to NASDAQ due to inaccurate, incomplete or improperly formatted data; transmitted Route or Combined Order/Route Reports that the OATS system was unable to link to the corresponding new order transmitted by the destination member firm due to inaccurate, incomplete or improperly formatted data; transmitted Execution Reports to OATS that contained inaccurate, incomplete or improperly formatted data; and transmitted New Order Reports and related subsequent reports to OATS where the timestamp for the related subsequent report occurred prior to the receipt of the order.

FINRA found that the firm transmitted reports to OATS that contained inaccurate, incomplete or improperly formatted data. FINRA also found that the firm accepted short sale orders in an equity security from another person, or effected a short sale in an equity security for its own account without borrowing the security, or entering into a *bona fide* arrangement to borrow the security; or having reasonable grounds to believe

that the security could be borrowed so that it could be delivered on the date delivery is due; and documenting compliance with SEC Rule 203(b)(1) of Regulation SHO. In addition, FINRA determined that the firm made publicly available a report on its routing of non-directed orders in covered securities during a calendar quarter that included incomplete information as to its routing venues. Moreover, FINRA found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning order handling, short sale transactions and clearly erroneous trade filings. **(FINRA Case #2007010454101)**

**Merrill Lynch, Pierce, Fenner & Smith Incorporated (CRD #7691, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$75,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it inaccurately filed a New York Stock Exchange (NYSE) report on a customer's complaint. The findings stated that the firm reported the complaint as part of its 351(d) quarterly report but inaccurately reported the complaint as firm-related instead of as a sales practice matter; as a result, it was not required to identify the broker or his assistant, or note the amount in dispute. The findings also stated that the firm failed to timely report the complaint on the broker's Uniform Termination Notice for Securities Industry Registration (Form U5) even though it was aware that the complaint involved the broker and possible sales practice violations. The findings also included that the firm failed to timely file an NYSE Form RE-3 reporting the customer's complaint. **(FINRA Case #2008015403102)**

**Oppenheimer & Co. Inc. (CRD #249, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$57,500, ordered to pay \$17,879.51, plus interest, in restitution to customers, and to revise its written supervisory procedures regarding best execution, trade reporting and sales transactions. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it purchased municipal securities for its own account from a customer and/or sold municipal securities for its own account to a customer at an aggregate price (including any markdown or markup) that was not fair and reasonable, taking into consideration all relevant factors, including the best judgment of the broker, dealer or municipal securities dealer as to the fair market value of the securities at the time of the transactions and of any securities exchanged or traded in connection with the transaction; the expense involved in effecting the transaction; the fact that the broker, dealer or municipal securities dealer is entitled to a profit; and the total dollar amount of the transactions. The findings stated that the firm failed to provide written notification disclosing to its customer its correct capacity in the transaction, that the commission was a markup/markdown or commission equivalent, and that when acting as a principal for its own account that it was a market maker in each security. The findings also stated that the firm transmitted reports to OATS that contained inaccurate, incomplete or improperly formatted data; specifically, the reports contained inaccurate order route reports, missing route reports or incorrect share quantities. The findings also included that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and/or FINRA rules addressing best execution, trade reporting and sales transactions. **(FINRA Case #2008013630001)**

**Pacific Crest Securities LLC (CRD #6619, Portland, Oregon)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted reports to OATS that failed to include the share quantity in its cancel/replace reports. The findings stated that the firm failed to show the correct entry time on brokerage order memoranda and failed to properly record long and short sales on its proprietary trading ledger for transactions. The findings also stated that the firm failed to provide written notification disclosing to its customer its correct capacity in transactions. The findings also included that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to SEC Rule 611(c) of Regulation NMS.

FINRA found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and/or FINRA rules addressing order handling SEC Rule 606, market order protection, best execution (three quote rule), sales transactions, SEC Rule 10b-21 and other trading rules. FINRA also found that the firm failed to provide documentary evidence that it performed the supervisory reviews set forth in written supervisory procedures concerning the One Percent Rule, SEC Rule 602(b)(1) and (4), and OATS clock synchronization. **(FINRA Case #2009017007602)**

**Premier Group, Inc. (CRD #47346, San Antonio, Texas)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$12,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it acted as the sole placement agent for contingent offerings and failed to ensure proper control of investors' funds by sending them directly to the issuer, and also neglected to promptly transmit customers' checks. The findings stated that the firm failed to meet the minimum contingency by a contingent offering's termination date, failed to break escrow for a contingent offering until after the termination date, failed to amend the offering and failed to offer each investor rescission or reconfirmation to continue with the offering, thereby willfully violating SEC Rule 17a-3(a)(2) and NASD Rule 2110. The findings also stated that the firm failed to book liabilities associated with its expense sharing agreement, failed to enter into an adequate expense sharing agreement with its affiliate and failed to properly accrue liabilities, so it operated in net capital deficiency. **(FINRA Case #2008011618101)**

**Stifel, Nicolaus & Company, Incorporated (CRD #793, St. Louis, Missouri)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$32,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it bought or sold corporate bonds from or to customers and failed to buy or sell such bonds at a price that was fair, taking into consideration all relevant circumstances, including market conditions with respect to each bond at the time of the transaction, the expense involved and that the firm was entitled to a profit. The findings stated that the firm transmitted ROEs to OATS that OATS rejected due to context or syntax errors; the firm failed to repair many of the rejected ROEs even though they were repairable, so in effect, the firm failed to transmit them to OATS. The findings also stated that the firm incorrectly reported principal transactions as either "agent" or "riskless principal" to the FNTRF, and failed to report

the first leg of “riskless principal transactions” as “principal” to the FNTRF. (FINRA Case #2007011293101)

**Wedbush Securities Inc. (CRD #877, Los Angeles, California)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$28,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report transactions in TRACE-eligible securities to TRACE within 15 minutes of execution time, and failed to report the correct trade time for transactions in TRACE-eligible securities to TRACE. The findings stated that the firm transmitted reports to OATS that contained inaccurate, incomplete or improperly formatted data, in that the firm incorrectly reported the order type code, failed to submit a Route Report, reported an incorrect order entry time and incorrectly submitted a cancellation flag. The findings also stated that the firm provided incorrect written information to its customers, in that the firm failed to provide written notification disclosing its correct capacity in transactions to its customer; when it acted as principal for its own account, failed to provide written notification disclosing the correct reported trade price to its customer; and failed to provide written notification disclosing to its customer its correct capacity in transactions and the correct reported trade price. The findings also included that the firm made available a report on the covered orders in national market system securities it received for execution from any person, and the report included incorrect information as to the number of covered orders the firm executed. (FINRA Case #2008013225201)

**Wells Fargo Advisors Financial Network, LLC (CRD #11025, St. Louis, Missouri)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to file summary and statistical information for customer complaints by the 15th day of the month following the calendar quarter in which the firm received them. The findings stated that the firm’s supervisory system was not reasonably designed to ensure that summary and statistical information of customer complaints was filed in accordance with NASD Rule 3070. The findings also stated that the firm’s supervisory system failed to provide for reasonable follow-up and review to ensure that required customer complaint filings were made. (FINRA Case #2009016286401)

## Individuals Barred or Suspended

**Benjamin Burl Abbott III (CRD #5317757, Registered Representative, Mount Dora, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for one year. The fine must be paid either immediately upon Abbott’s reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Abbott consented to the described sanctions and to the entry of findings that he maintained personal margin accounts at his member firm and met initial margin calls in his personal margin accounts by liquidating the position that created the margin call because he did not have sufficient equity in the account to pay for the securities purchased on margin, nor did he deposit sufficient funds to meet

the margin calls. The findings stated that Abbott placed an unauthorized short sell order of a company's stock, at a total cost of \$90,331.71, in a customer's account, and the trade was marked "unsolicited" although the customer had not authorized a short sale of the stock or any other specific transaction. The findings also stated that Abbott maintained that he made an error and meant to enter an order for a short sale for a smaller number of shares, but the customer did not authorize this trade transaction either. The findings also included that the firm cancelled the transaction, resulting in a market loss of approximately \$20,000, which the firm absorbed.

FINRA found that, in connection with joint accounts he held with his relative at the firm, Abbott knowingly entered information that overstated his net worth and annual income on new account forms. FINRA also found that Abbott entered the false information on the new account forms so he could engage in trading activity the firm would not have allowed if he disclosed his true net worth and annual income. In addition, FINRA determined that Abbott's actions resulted in the creation of false books and records.

The suspension is in effect from November 1, 2010, through October 31, 2011. **(FINRA Case #2008015676801)**

**Jamaine Kwesi Aggrey (CRD #4424390, Registered Representative, Atlanta, Georgia)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for two years. The fine must be paid either immediately upon Aggrey's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Aggrey consented to the described sanctions and to the entry of findings that he took the Series 86 examination at a testing center, and prior to the commencement of the exam, represented electronically and in writing that he had reviewed and accepted the testing center's Rules of Conduct, which provided, among other things, that he could not receive any form of assistance during the examination. The findings stated that during the examination, Aggrey took an unscheduled break, during which he left the testing room, went to his locker, and, in plain view of a test center employee, retrieved his self-prepared study notes that contained material relevant to the Series 86 examination. The findings also stated that after testing center personnel confronted him, Aggrey returned the notes to his locker, returned to the testing room and completed the examination.

The suspension is in effect from November 1, 2010, through October 31, 2012. **(FINRA Case #2010021167401)**

**Thomas Norwood Anderson Jr. (CRD #1799579, Registered Representative, Suffolk, Virginia)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$7,500 and suspended from association with any FINRA member in any capacity for 15 business days. Without admitting or denying the findings, Anderson consented to the described sanctions and to the entry of findings that he exercised discretion in customer accounts. The findings stated that the customers orally conferred Anderson's exercise of discretion, but he did not obtain the customers' written authorization or his member firm's written acceptance of the accounts as discretionary. The findings also

stated that the firm did not permit discretion to be used in the types of accounts in question. The findings also included that Anderson completed an annual compliance questionnaire for the firm in which he falsely answered “no” to a question that asked if he had “maintain[ed] full or partial discretion over any client or outside account” during the previous year.

The suspension was in effect from November 15, 2010, through December 6, 2010.  
(FINRA Case #2009018091801)

**Mark William Beggs (CRD #3183858, Registered Representative, Crown Point, Indiana)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 20 business days. The fine must be paid either immediately upon Beggs’ reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Beggs consented to the described sanctions and to the entry of findings that he engaged in outside business activities, in that he acted on behalf of an insurance company not affiliated with his firm and engaged in sales to customers of indexed deferred annuities involving a total principal investment of \$112,000, for which he was compensated approximately \$10,080 in commissions. The findings stated that Beggs accepted compensation from the insurance company for the sales without giving his firm prompt written notice.

The suspension was in effect from November 1, 2010, through November 29, 2010.  
(FINRA Case #2009018374401)

**Michael Thomas Bodine (CRD #5599558, Associated Person, Trafford, Pennsylvania)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Bodine’s reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Bodine consented to the described sanctions and to the entry of findings that he signed customers’ names on insurance policy-related documents without the customers’ authorization or consent. The findings stated that the documents included insurance illustrations, delivery receipts, HIV disclosure consents and an insurance replacement form; all of the documents were related to transactions the customers authorized.

The suspension is in effect from November 1, 2010, through April 30, 2011. (FINRA Case #2009019352201)

**Timothy James Carroll (CRD #2903562, Registered Representative, Albany, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for 60 days. The fine must be paid either immediately upon Carroll’s reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Carroll consented to the described sanctions and to

the entry of findings that he executed transactions in a customer account without the customer's prior knowledge, authorization or consent; however, only one of the transactions resulted in commissions, which totaled \$91.76. The findings stated that Carroll borrowed \$500 from another customer although his member firm had procedures that generally prohibited borrowing money from customers, and it did not know of or otherwise approve the loan. The findings also stated that Carroll falsely represented on a firm annual compliance questionnaire that he had never received loans from a customer.

The suspension is in effect from November 1, 2010, through December 30, 2010. **(FINRA Case #2009016531801)**

**Robert Anthony Cataldo (CRD #1056971, Registered Representative, Lexington, Massachusetts)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Cataldo consented to the described sanction and to the entry of findings that he engaged in several outside business activities without providing prompt written notice to his member firm and failed to disclose these outside activities on his firm's compliance questionnaires. The findings stated that Cataldo failed to completely respond to FINRA requests for information. **(FINRA Case #2009017809101)**

**Victor W. Chan (CRD #4461859, Registered Representative, Philadelphia, Pennsylvania)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for one month. Without admitting or denying the findings, Chan consented to the described sanctions and to the entry of findings that he requested and received answer keys for long-term care (LTC) continuing education (CE) exams for two states, and then distributed them to firm employees and outside financial advisors.

The suspension was in effect from November 15, 2010, through December 14, 2010. **(FINRA Case #2009021029613)**

**Douangchay Chounchantharat (CRD #2998644, Registered Representative, Keller, Texas)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Chounchantharat wrongfully converted \$4,383 from her member firm's insurance affiliate and applied the funds for her personal use. The findings stated that the insurance affiliate detected the conversion, in the course of an audit of Chounchantharat's accounts, and notified her of the discrepancy. The findings also stated that Chounchantharat fully reimbursed the firm's affiliate and that she signed a written statement admitting that she had wrongfully taken \$4,383 from the firm's affiliate. The findings also included that Chounchantharat failed to respond to FINRA requests for information and documents. **(FINRA Case #2009018050501)**

**Samuel Peter Crompton (CRD #4296741, Registered Representative, Manly, Australia)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 10 business days. The fine must be paid either immediately upon Crompton's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is

earlier. Without admitting or denying the findings, Crompton consented to the described sanctions and to the entry of findings that he exercised improper discretion in a firm customer's account. The findings stated that Crompton received oral authorization from the customer but failed to receive written authorization to exercise discretion in the customer's account, and Crompton's member firm did not accept the account as discretionary.

The suspension was in effect from November 1, 2010, through November 12, 2010. **(FINRA Case #2009017980901)**

**Dante Thomas Garcia DeMiro (CRD #2674582, Registered Principal, Milford, Michigan)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for nine months. The fine must be paid either immediately upon DeMiro's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, DeMiro consented to the described sanctions and to the entry of findings that he engaged in private securities transactions outside the scope of his employment with his firm when he sold \$587,000 of promissory notes in a Regulation D offering of an entity to customers. The findings stated that DeMiro did not provide his firm with prior written notice of the sales and did not receive the firm's written approval or acknowledgement for these sales.

The suspension is in effect from November 1, 2010, through July 31, 2011. **(FINRA Case #2008012498701)**

**Leonard William Dendunnen (CRD #1869933, Registered Representative, Westport, Connecticut)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Dendunnen's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Dendunnen consented to the described sanctions and to the entry of findings that he willfully failed to disclose a material fact on his Form U4. The findings stated that Dendunnen attended his member firm's annual compliance meeting and indicated on an internal Registered Representative Disclosure form that his Form U4 was accurate. The findings also stated that six-to-eight weeks after the compliance meeting, Dendunnen informed the firm of the material fact he failed to disclose. The findings also included that Dendunnen failed to respond in a timely manner to FINRA requests for information and documents.

The suspension is in effect from November 1, 2010, through April 30, 2011. **(FINRA Case #2009018793601)**

**Mark Edward Diemer (CRD #1280910, Registered Principal, Glencoe, Missouri)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Diemer consented to the described sanction and to the entry of findings that, while acting as his member firm's Anti-Money Laundering Compliance Officer (AMLCO),

he failed to implement policies and procedures reasonably designed to detect and cause the reporting of suspicious transactions. The findings stated that Diemer, acting as his firm's AMLCO, failed to detect, investigate and/or file SARs as appropriate, on occasions when "red flags" of suspicious activity were present. The findings also stated that the firm is an introducing firm that maintains "piggyback" arrangements with foreign broker-dealers and executes their transactions with a clearing firm. The findings also included that many of these suspicious activities occurred in accounts of foreign broker-dealers with whom the firm had a piggyback relationship, and Diemer failed to conduct an adequate investigation into these activities and did not file as appropriate, any SARs. FINRA found that Diemer failed to appear for a FINRA on-the-record interview. (FINRA Case #2009016254302)

**Tyler McKittrick Eddy (CRD #4148945, Registered Representative, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$200,000 and suspended from association with any FINRA member in any capacity for one month. Without admitting or denying the findings, Eddy consented to the described sanctions and to the entry of findings that he engaged in improper communications with other inter-dealer brokers about credit default swaps (CDS) dealers' brokerage fee rate reduction proposals concerning CDS instruments and, therefore, failed to abide by his duty to observe high standards of commercial honor and just and equitable principles of trade. The findings stated that these communications generally arose after individual CDS dealers sought to renegotiate the CDS brokerage fees they paid by transmitting schedules of their proposed brokerage rate reductions to multiple inter-dealer brokers. The findings also stated that while many of the communications involved one-to-one discussions between Eddy and personnel from other CDS inter-dealer brokerage firms, some of the communications referred to similar types of interactions about the schedules involving additional inter-dealer brokerage firms.

The suspension was in effect from November 15, 2010, through December 14, 2010. (FINRA Case #2006005158310)

**Everett Bryant Ellis (CRD #4046494, Registered Principal, Gulf Breeze, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000, suspended from association with any FINRA member in any capacity for 15 business days, and ordered to pay \$9,334.85, plus interest, in restitution to a customer. Without admitting or denying the findings, Ellis consented to the described sanctions and to the entry of findings that he recommended that a customer, to whom he had sold a variable annuity with a seven-year surrender period, surrender 50 percent of the total value of her variable annuity and invest the proceeds in municipal bond mutual funds. The findings stated that the customer incurred a surrender charge of \$5,684.13 in connection with the annuity surrender and sales charges of \$3,650.72 in connection with the mutual fund purchases. The findings also stated that Ellis' recommendation to the customer was unsuitable in light of the customer's age and financial situation; and considering both the costs associated with the surrender of the variable annuity and purchase of the mutual fund, he had no reasonable basis for his recommendation to switch from the variable annuity to the mutual funds.

The suspension was in effect from November 15, 2010, through December 6, 2010. (FINRA Case #2008014615501)

**Kelly Lee Flaherty (CRD #3138115, Registered Representative, Alton, Illinois)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$21,000, which includes disgorgement of commissions, and suspended from association with any FINRA member in any capacity for four months. The fine must be paid either immediately upon Flaherty's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Flaherty consented to the described sanctions and to the entry of findings that he participated in the sales of Universal Lease Programs (ULPs), which totaled \$140,429.75, and prior to the sales, he failed to provide his member firm with written notice about the sales and failed to obtain his firm's written approval. The findings stated that Flaherty received \$15,980.87 in commissions, which were paid to an entity established for his annuities and insurance business.

The suspension is in effect from November 15, 2010, through March 14, 2011. **(FINRA Case #2009016709016)**

**Randall Allen Gissendaner (CRD #2130232, Registered Representative, Covington, Georgia)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$20,500, which includes disgorgement of commissions, and suspended from association with any FINRA member in any capacity for five months. Without admitting or denying the findings, Gissendaner consented to the described sanctions and to the entry of findings that he engaged in private securities transactions when he sold ULPs in various resort properties to investors. The findings stated that Gissendaner participated in a sale of a total of \$172,989.23 worth of ULPs to investors and received approximately \$15,380 in commissions from the sales. The findings also stated that prior to participating in these sales Gissendaner failed to provide his member firm with written notice of the sales of ULP products, and failed to obtain the firm's written approval. The findings also included that Gissendaner completed his firm's Outside Business Activities/Private Securities Transactions form, and submitted his firm's Annual Compliance Questionnaire and stated that he had no outside business activities or private securities transactions to report, and that he had not engaged in any private securities transactions while associated with the firm. FINRA found that Gissendaner also falsely answered "No" when he was asked whether he accepted compensation from any person or entity that was not a firm-approved arrangement or that was not disclosed on his Outside Business Activities Questionnaire.

The suspension is in effect from November 15, 2010, through April 14, 2011. **(FINRA Case #2009016709013)**

**Yisrael Binyamin Goldstein (CRD #2983230, Registered Principal, Spring Valley, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Goldstein consented to the described sanction and to the entry of findings that he failed to respond to FINRA requests for information and documents. **(FINRA Case #2007008158202)**

**William Hanson Hauser (CRD #5210123, Associated Person, West Lafayette, Indiana)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Hauser consented to the described sanction and to the entry of findings that he created fictitious homeowners insurance policies in order to meet production goals with his member firm's affiliated insurance company. The findings stated that Hauser did so by forging customer signatures or otherwise falsifying insurance application forms and related documents. The findings also stated that the firm's affiliated insurance company paid Hauser approximately \$4,000 in commissions as a result of the fictitious policies. **(FINRA Case #2010022661001)**

**Randall Walter Hess (CRD #1002380, Registered Principal, Omaha, Nebraska)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 10 business days. Without admitting or denying the findings, Hess consented to the described sanctions and to the entry of findings that his member firm's written supervisory procedures required all of its registered representatives to submit a weekly correspondence log, along with copies of the correspondence, to the compliance department. The findings stated that Hess did not submit any of his correspondence to and from a public customer to a principal of his firm for review prior to mailing, and did not submit the correspondence to his firm's compliance department as its written supervisory procedures required.

The suspension was in effect from November 15, 2010, through November 29, 2010. **(FINRA Case #2007008310201)**

**Joshua Hiller (CRD #4998548, Registered Representative, Asheville, North Carolina)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 30 business days. The fine must be paid either immediately upon Hiller's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Hiller consented to the described sanctions and to the entry of findings that he solicited a member firm customer to participate in the firm's advisory program and signed the customer's named on an individual retirement account (IRA) advisory agreement form without the customer's knowledge or authorization. The findings also stated that by Hiller signing the customer's name on the form, the firm was provided with full discretionary trading authority in the customer's account, including asset allocation and rebalancing over the investment of the customer's fund, and permitted the firm to assess a fee based upon the value of the assets in the account. The findings also included that firm employees managed the account assets in the investment advisory program; Hiller was only licensed as a registered representative, not as an investment advisor, but he was entitled to a portion of the advisory fee and would continue to serve as the financial advisor for the customer's commission and advisory-based accounts.

The suspension was in effect from November 1, 2010, through December 13, 2010. **(FINRA Case #2009019080701)**

**Jennifer Veronica Himes (CRD #1485199, Registered Sales Assistant, Temecula, California)** submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity for two months. The fine must be paid either immediately upon Himes' reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Himes consented to the described sanctions and to the entry of findings that she violated her member firm's policies and procedures when she facilitated day-to-day interactions between a registered representative's customers and a non-FINRA regulated investment group outside of her firm that operated as a commodity pool. The findings stated that Himes failed to disclose these activities to her member firm even though firm policies and procedures required her to do so. The findings also stated that Himes failed to use the firm's email system on numerous occasions when communicating regarding the firm's business and customers as her firm required to meet its requirements under Section 17(a) of the Securities Exchange Act of 1934 and SEC Rule 17a-4. The findings also included that at another registered representative's direction, Himes communicated with the commodity pool using non-firm email addresses and relayed messages from the representative that specifically advised customers not to use firm email addresses for communications regarding the commodity pool. FINRA found that Himes engaged in this conduct to prevent the firm from detecting that she and the representative were involved with the commodity pool, causing the firm to fail to retain certain email communications relating to its business.

The suspension is in effect from November 1, 2010, through December 31, 2010. **(FINRA Case #2008015411501)**

**Kenn Arden Hugos (CRD #1003521, Registered Representative, Phoenix, Arizona)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for 20 business days. Without admitting or denying the findings, Hugos consented to the described sanctions and to the entry of findings that he executed transactions in a customer's account without the customer's knowledge or consent. The findings stated that Hugos received a complaint from the customer regarding the transactions and settled the complaint by personally reimbursing the customer \$353.55 for costs and commissions associated with the transactions. The findings also stated that Hugos did not report the complaint to his member firm or seek the firm's approval to settle the matter.

The suspension was in effect from November 1, 2010, through November 29, 2010. **(FINRA Case #2008016344401)**

**Brandon Michael Kappes (CRD #5578390, Associated Person, Cicero, Indiana)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Kappes consented to the described sanction and to the entry of findings that he created fictitious homeowners-, automobile- and renters-insurance policies in order to meet production goals with his member firm's affiliated insurance company. The findings

stated that Kappes did so by forging customer signatures or otherwise falsifying insurance application forms and related documents. The findings also stated that the firm's affiliated insurance company paid Kappes approximately \$18,000 in commissions as a result of the fictitious policies. **(FINRA Case #2010022662401)**

**Norman Lee Kearney Jr. (CRD #1665504, Registered Representative, Portland, Oregon)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Kearney consented to the described sanction and to the entry of findings that he engaged in an outside business activity and did not provide prompt written notice to his firm regarding his association with a limited liability company. The findings stated that, in regard to FINRA's request for information, Kearney falsely stated to his supervisor and a firm compliance officer that he was not aware of the limited liability company and had no involvement or relationship with it. The findings also stated that Kearney intentionally provided false information in a response to FINRA when he stated that he was not aware of the company until his supervisor brought it to his attention. **(FINRA Case #2009017287701)**

**Roland James Kern (CRD #5299100, Registered Representative, Conshohocken, Pennsylvania)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Kern's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Kern consented to the described sanctions and to the entry of findings that he failed to promptly deliver life insurance policies to clients in accordance with his member firm's written supervisory procedures and, instead, forged client signatures on life insurance policy delivery receipts, falsely indicating that policies were delivered to his clients, without the customers' authorization to sign their names on the receipts. The findings stated that while Kern misrepresented the delivery date of the policies to his customers, each of the customers did actually purchase the policies in question and did not seek to cancel the policies upon actual receipt.

The suspension is in effect from October 18, 2010, through April 17, 2011. **(FINRA Case #2009020142501)**

**Ronald Laverne Kersey (CRD #2392393, Registered Representative, Lawrenceville, Georgia)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$24,500, which includes disgorgement of commissions, and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Kersey's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Kersey consented to the described sanctions and to the entry of findings that he engaged in private securities transactions when he sold securities in the form of ULPs in various resort properties to investors. The findings stated that Kersey participated in a sale of a total of \$194,385.96 worth of ULPs to investors and received

approximately \$19,438.60 in commissions from the sales. The findings also stated that prior to participating in these sales, Kersey failed to provide his member firm with written notice of the sales of ULP products, and failed to obtain the firm's written approval.

The suspension is in effect from November 1, 2010, through January 31, 2011. **(FINRA Case #2009016709012)**

**Junior Kim (CRD #5412228, Registered Representative, La Canada, California)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 30 days. In addition, Kim consents, has agreed and undertaken to cooperate fully with FINRA in any and all investigations, litigation or other proceedings that concern, relate to or arise from the matters of the AWC; Kim has agreed to be interviewed by FINRA at such times as FINRA may reasonably request and to appear and testify truthfully and completely in such investigations or hearings as FINRA may reasonably request. The fine must be paid either immediately upon Kim's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier.

Without admitting or denying the findings, Kim consented to the described sanctions and to the entry of findings that he changed customer telephone numbers to report inaccurate information, without the customers' knowledge or authorization; and by making the changes to customers' contact profiles, he caused the firm to create and maintain inaccurate books and records in the firm's client account information system. The findings stated that Kim was aware that his firm's policies prohibited its employees from making false and misleading entries in its books and records. The findings also stated that Kim subsequently admitted that he made the changes to the customer account information based on the instruction of senior members of his working team, in preparation for their departure from the firm. The findings also included that the firm immediately terminated Kim's employment.

The suspension was in effect from November 1, 2010, through November 30, 2010. **(FINRA Case #2009017798901)**

**Stanley Mark Kobin (CRD #2037593, Registered Principal, Hicksville, New York)** submitted an Offer of Settlement in which he was suspended from association with any FINRA member in any principal capacity for nine months, required to requalify as a General Securities Principal by taking the Series 24 examination before becoming associated with any member firm, required to complete 16 hours of AML continuing education training, and to fully and promptly cooperate with FINRA in any and all investigations and/or disciplinary proceedings of any person or entity, concerning conduct at and/or relating to the firm at issue during the time period he was associated by promptly providing requested information and documents and to appear and testify fully, completely and truthfully at any FINRA interview and/or disciplinary hearing. Without admitting or denying the allegations, Kobin consented to the described sanctions and to the entry of findings that, as his member firm's AMLCO, he failed to implement policies and procedures reasonably expected to detect and cause the

reporting of transactions required under 31 USC 5318(g) and implementing regulations; Kobin failed to provide AML training for firm personnel, failed to adequately review customer activity for compliance with AML rules and to adequately review suspicious activity and file timely SARs where appropriate. The findings stated that Kobin failed to fulfill his responsibility to access the Financial Crimes Enforcement Network (FINCEN) of the United States Department of Treasury to review requests for information, under Section 314(A) of the USA Patriot Act, relating to possible money laundering or terrorist activity. The findings also stated that Kobin failed to search firm records to determine whether the firm maintained, or had maintained, any account for, or had engaged in any transactions with, any individual, entity or organization named in FINCEN's requests. The findings also included that, as a result of the firm's inadequate AML program, the firm, acting through Kobin, failed to timely detect, investigate and report suspicious activity to achieve compliance with the Bank Secrecy Act.

FINRA found that Kobin failed to identify red flags in connection with suspicious account activity, did not timely investigate or review the red flags, and caused his firm's failure to timely report the suspicious activity. FINRA also found that Kobin failed to implement the firm's procedures for suspicious activity detection and reporting, monitor and investigate approximately \$6 million in suspicious wires to and from one of its branches, detect and timely report suspicious activity and maintain documentation evidencing a review for suspicious activity of securities transactions, money movements and securities transfers. In addition, FINRA determined that Kobin failed to ensure that a designated principal review and approve all correspondence to and from branch offices, including electronic correspondence. Moreover, FINRA determined that Kobin, as his firm's Chief Compliance Officer (CCO), failed to properly create, maintain and timely file records and reports of customer complaints, and failed to timely update Forms U4 and Forms U5 relating to persons who were registered with FINRA through his firm. Furthermore, FINRA found that, as CCO, Kobin failed to take adequate steps to comply with the Firm Element of the Continuing Education Requirement and, as a result, his firm did not conduct the required annual needs analysis or develop a written training plan. FINRA found that Kobin also failed to ensure that each registered person was clearly assigned to an appropriately registered representative and/or principal responsible for supervising that person's activities, and he failed to conduct an annual compliance interview or meeting. FINRA also found that, as CCO, Kobin failed to implement an adequate supervisory control system over the firm's branch office managers, sales managers or any person performing a similar function; specifically, the firm's written supervisory procedures failed to identify producing managers for purposes of review and supervision of their customer account activity; assign a person who was either senior to, or otherwise independent of, the producing manager to perform such supervisory reviews; and reasonably ensure that the firm calculate, on a rolling, twelve-month basis, whether heightened supervision requirements were triggered with any respect to any producing managers.

The suspension is in effect from October 18, 2010, through July 17, 2011. **(FINRA Case #2008011678304)**

**Shawn Patrick Koerner (CRD #2183243, Registered Representative, Wautoma, Wisconsin)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Koerner consented to the described sanction and to the entry of findings that he borrowed \$94,000 from a firm customer when his member firm's compliance manual generally prohibited representatives from borrowing money from a customer other than a financial institution or a family member; the customer was neither. The findings stated that Koerner failed to respond to FINRA requests for information. **(FINRA Case #2009019876801)**

**David Smith Kopp (CRD #1579208, Registered Representative, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 20 business days. The fine must be paid either immediately upon Kopp's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Kopp consented to the described sanctions and to the entry of findings that he engaged in an undisclosed outside business activity without providing prompt written notice to his member firm. The findings stated that Kopp, working with others, took steps to establish a business whose apparent purpose was to provide investment banking-related services to Chinese companies seeking access to United States capital markets.

The suspension was in effect from November 1, 2010, through November 29, 2010. **(FINRA Case #2008015308201)**

**Li Kopp aka Sabrina Kopp, Li Guo, and Sabrina Guo (CRD #5096198, Registered Principal, Beijing, China)** submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$7,500 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Kopp's reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Kopp consented to the described sanctions and to the entry of findings that she engaged in an undisclosed outside business activity without providing prompt written notice to her member firm. The findings stated that Kopp, working with others, took steps to establish a business whose apparent purpose was to provide investment banking-related services to Chinese companies seeking access to United States capital markets.

The suspension is in effect from October 18, 2010, through April 17, 2011. **(FINRA Case #2008015308001)**

**Morris Noriaki Kunita (CRD #832183, Registered Principal, Honolulu, Hawaii)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$7,500 and suspended from association with any FINRA member in any capacity for 15 business days. Without admitting or denying the findings, Kunita consented to the described sanctions and to the entry of findings that he allowed a registered representative over whom he had supervisory authority to sell preferred stock through a private placement

while not appropriately registered to sell that product. The findings stated that the registered representative knew that he was not appropriately registered to sell the product to the customer and asked Kunita—his supervisor—to sign the subscription agreement as the selling representative. The findings also stated that Kunita agreed and signed the subscription agreement, and submitted the application, including the subscription agreement, to the member firm for processing. The findings also included that the firm approved the investment and executed the transaction. FINRA found that Kunita caused the firm’s books and records to be inaccurate by signing the subscription agreement as the selling representative when, in fact, he was not the selling representative.

The suspension was in effect from November 15, 2010, through December 6, 2010. **(FINRA Case #2009019051902)**

**Daniel Lee Kurtz (CRD #4894211, Registered Representative, Sioux Falls, South Dakota)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Kurtz’ reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Kurtz consented to the described sanctions and to the entry of findings that he created a false document, which he labeled a “Contract Investment Summary,” that showed a balance of \$9,193.36 in an account when the actual value at the time was less than \$500, and placed his firm’s logo on the document without the firm authorizing his use of either the form of the document or the information contained in it. The findings stated that the false document was an intentional misrepresentation of the value of a 529 plan account established for Kurtz’ relative’s benefit. The findings also stated that Kurtz used the document when an opposing counsel in Kurtz’ divorce case informally, not as part of the divorce proceeding, inquired about the value of the 529 plan account, and Kurtz may not have had an obligation to respond to the inquiry. The findings also included that Kurtz had withdrawn funds from the account to pay for household expenses and provided the document to the counsel in a manner that suggested that it was an authentic and official document of his firm.

The suspension is in effect from November 1, 2010, through April 30, 2011. **(FINRA Case #2009020618301)**

**Tracy Marie Lamoreaux (CRD #4578811, Registered Representative, Phoenix, Arizona)** submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Lamoreaux consented to the described sanction and to the entry of findings that she borrowed money from her member firm’s customer without seeking the firm’s permission to borrow the funds and against the firm’s borrowing procedures, which required its registered representatives to request and obtain the firm’s approval before borrowing money from or lending money to a customer. The findings stated that the firm repaid the customer the loan amount plus interest. The findings also stated that Lamoreaux failed to respond to FINRA requests for documents and information, and to provide testimony. **(FINRA Case #2009019285301)**

**Raymond Wing Fai Lau (CRD #1930190, Registered Representative, Honolulu, Hawaii)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$7,500 and suspended from association with any FINRA member in any capacity for 15 business days. Without admitting or denying the findings, Lau consented to the described sanctions and to the entry of findings that he sold preferred stock through a private placement while not appropriately registered to sell that product. The findings stated that Lau informed a customer about a private offering of preferred stock in a company, stating that he intended to invest in the company, and provided the customer with brochures, disclosure documents and an application, including a subscription agreement, to invest in the company. The findings also stated that the customer completed the application for a \$300,000 investment in the company and returned it to Lau. The findings also included that because Lau knew that he was not appropriately registered to sell the product to the customer, he asked his supervisor to sign the subscription agreement as the selling representative. FINRA found that the supervisor agreed and signed the subscription agreement, and submitted the application, including the subscription agreement, to the member firm for processing. FINRA also found that the firm approved the investment and executed the transaction. In addition, FINRA determined that Lau caused the firm's books and records to be inaccurate by having his supervisor sign the subscription agreement as the selling representative.

The suspension was in effect from November 15, 2010, through December 6, 2010.  
(FINRA Case #2009019051901)

**Michael Joseph Leary (CRD #1029983, Registered Principal, North Andover, Massachusetts)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member firm in any capacity for 10 business days. The fine must be paid either immediately upon Leary's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Leary consented to the described sanctions and to the entry of findings that he engaged in outside business activities, for compensation, without providing prompt written notice to his member firm.

The suspension was in effect from November 1, 2010, through November 12, 2010.  
(FINRA Case #2009017279601)

**Frank Marasco (CRD #2833130, Registered Representative, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$40,000 and suspended from association with any FINRA member in any capacity for 45 days. The fine must be paid either immediately upon Marasco's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Marasco consented to the described sanctions and to the entry of findings that he overstated his trading volume in separate securities and caused reports of purchase and sale transactions to be published or circulated when each such purchase or sale transactions were not *bona fide* purchases or sales of such security. The findings stated that Marasco was responsible for entering orders, executing trades, and determining the quotations at which his firm would buy and sell

securities in the health care and biotech sector. The findings also stated that Marasco entered buy and sell orders into his firm's trading platform, and then entered orders on the opposite side of the market for approximately the same number of shares, which executed against one another, resulting in separate transactions being executed against one another, creating non-*bona fide* market activity in the securities. The findings also included that each of these separate transactions was publicly reported to NASDAQ through the Automated Confirmation Transaction Service and disseminated to the public. FINRA found that Marasco's firm advertised trading volume in order to, among other things, attract customer order flow using private service providers, and Marasco's advertised trading volume from entering orders that executed against one another accounted for more than 90 percent of his firm's advertised trading volume in some securities and more than 50 percent of the firm's advertised trading volume in separate securities.

The suspension is in effect from November 1, 2010, through December 15, 2010. (FINRA Case #2005002134102)

**Bernard Robert Markowitz (CRD #2414854, Registered Principal, Palm Harbor, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Markowitz consented to the described sanction and to the entry of findings that he effected transactions in a customer's account without the customer's prior knowledge, authorization or consent. The findings stated that the customer verbally complained to Markowitz about the amount of commissions charged in her account, and Markowitz subsequently attempted to settle the verbal complaint by providing the customer with a \$1,500 check to compensate her for the commissions that had been charged in her account. The findings also stated that Markowitz did not notify his firm of the customer's verbal complaint or that he had given her a \$1,500 check in an attempt to settle the customer's verbal complaint. (FINRA Case #2009021131201)

**Mark Wayne Mills (CRD #1277647, Registered Principal, Carmel, Indiana)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Mills consented to the described sanction and to the entry of findings that he borrowed \$317,000 from elderly customers, promised to pay interest and repay the principal in full by certain dates, but failed to repay the loans. The findings stated that Mills' member firms were unaware of and did not approve the loans. The findings also stated that one firm allowed lending arrangements between registered persons and customers under certain permissible arrangements and with its compliance department's prior written approval; the other firm prohibited its registered representatives from borrowing money from customers. (FINRA Case #2008015357301)

**Daniel David Misch (CRD #4377707, Registered Representative, Akron, Ohio)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Misch consented to the described sanction and to the entry of findings that he borrowed \$5,000 from a firm customer contrary to his member firm's compliance manual, which generally prohibited representatives from borrowing money from a

customer other than an immediate family member, which the customer was not. The findings stated that Misch failed to respond to FINRA requests for information. (FINRA Case #2009016756101)

**Rodney Brian Moss (CRD #2627266, Registered Representative, Los Angeles, California)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$11,000, which includes disgorgement of commissions, and suspended from association with any FINRA member in any capacity for five months. The fine must be paid either immediately upon Moss' reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Moss consented to the described sanctions and to the entry of findings that he participated in the sale of \$50,000 worth of ULPs without prior written notice about the sale to his member firm and his firm's prior written approval; Moss earned approximately \$6,000 in commissions from his sale of the ULP. The findings stated that Moss participated in sales of payphone programs totaling \$65,000 to members of the public, and failed to provide his firm with written notice about the sales and never obtained the firm's written approval. The findings also stated that Moss participated in the sales of an automatic teller machine (ATM) program totaling \$48,000 with an additional \$2,400 for surety bonds to members of the public, and failed to provide his firm with written notice about the sales and obtain his firm's written approval. The findings also included that Moss initialed and signed business activity statements in which he agreed that he was aware that his firm must be notified of all his business activities, even those that did not relate to the securities industry; these statements were incomplete and misleading because Moss failed to disclose his participation in the sales of the ULP, the payphone program and the ATM program.

The suspension is in effect from November 15, 2010, through April 14, 2011. (FINRA Case #2009016709015)

**David Gustav Much (CRD #4095088, Registered Representative, Los Angeles, California)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$25,000 and suspended from association with any FINRA member in any capacity for five months. The fine must be paid either immediately upon Much's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Much consented to the described sanctions and to the entry of findings that he recommended that his customers participate in a "Stock to Cash" program under which customers would pledge stock to obtain loans, the proceeds of which were, in many cases, used to purchase non-securities insurance products; and some of Much's customers participated in that strategy at his recommendation, obtaining loans of more than \$4.2 million. The findings stated that Much failed to conduct adequate due diligence concerning the operations or financial stability of the Stock to Cash program lender, and failed to take sufficient action to determine whether his clients' ownership interest in the pledged securities was adequately protected. The findings also stated that Much did not understand the potential risks inherent in the strategy and therefore did not have a reasonable basis

for his recommendations. The findings also included that Much engaged in private securities transactions through his marketing of the program, and he failed to notify or seek his member firm's approval before engaging in these transactions.

FINRA found that Much's supervisor directed him to disclose his participation in the program to the firm, and despite this direction, Much failed to provide notification until the day that his supervisor's annual branch examination began, and Much continued to recommend transactions in the program while the firm was reviewing his participation. FINRA also found that the firm's sales practice unit told Much that he was not allowed to recommend Stock to Cash transactions.

The suspension is in effect from November 15, 2010, through April 14, 2011. **(FINRA Case #2007008935001)**

**Jason Michael Mutascio (CRD #4156832, Registered Representative, Aventura, Florida)** submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Mutascio consented to the described sanction and to the entry of findings that he falsified multiple third-party wire request forms, submitted the falsified forms to his member firm, and obtained and exercised control over at least \$52,500 in funds from a customer's account without the customer's knowledge or authorization. The findings stated that Mutascio's submission of the falsified wire requests caused the firm's books and records to be inaccurate. The findings also stated that Mutascio failed to appear and testify for a FINRA on-the-record interview. **(FINRA Case #2009017814901)**

**Kyle T. Nolen (CRD #4901867, Registered Representative, Corryton, Tennessee)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Nolen's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Nolen consented to the described sanctions and to the entry of findings that he copied customers' original signatures from signed insurance documents that the customers had emailed him onto hard copies of the documents, without the customers' knowledge or authorization. The findings stated that Nolen was attempting to produce what appeared to be original customer signatures on the documents, since the insurance company would not accept scanned or electronically transmitted documents. The findings also stated that Nolen submitted the falsified signatures to the insurance company, representing them to be authentic.

The suspension is in effect from November 1, 2010, through January 31, 2011. **(FINRA Case #2009020798901)**

**Hye R. Oh (CRD #4882880, Registered Representative, Anaheim, California)** submitted an Offer of Settlement in which she was fined \$2,500 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Oh's reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any

statutory disqualification, whichever is earlier. Without admitting or denying the allegations, Oh consented to the described sanctions and to the entry of findings that she failed to respond in a timely manner to FINRA requests to appear for on-the-record interviews in connection with an investigation.

The suspension is in effect from November 15, 2010, through May 14, 2011. **(FINRA Case #2008013383001)**

**Gregory Lee Oldham (CRD #3247565, Registered Representative, Kenosha, Wisconsin)** submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member in any capacity for five months. In light of Oldham's financial status, no monetary sanction was imposed. Without admitting or denying the findings, Oldham consented to the described sanction and to the entry of findings that he participated in sales totaling \$403,000 worth of ULPs to members of the public and failed to provide his member firm with prior written notice of the sales and failed to obtain his firm's written approval. The findings stated that Oldham received approximately \$17,610 in commissions from the sales of ULPs.

The suspension is in effect from December 6, 2010, through May 5, 2011. **(FINRA Case #2009016709017)**

**David Michael Pagliarulo (CRD #4097544, Registered Representative, Mandeville, Louisiana)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for two years. The fine must be paid either immediately upon Pagliarulo's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Pagliarulo consented to the described sanctions and to the entry of findings that he signed customers' names on a variety of internal and external documents related to their accounts that he serviced. The findings stated that Pagliarulo also copied, cut and pasted another customer's name on the firm's explanation of transaction form. The findings also stated that all of the customers authorized Pagliarulo's action in each instance, but only one of the customers authorized him to sign their name on the respective documents. The findings also included that Pagliarulo knew that the firm did not permit employees to sign customers' names on documentation related to their accounts.

The suspension is in effect from November 15, 2010, through November 14, 2012. **(FINRA Case #2009017267701)**

**Jongman Park (CRD #2734627, Registered Principal, Fort Lee, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for 15 business days. The fine must be paid either immediately upon Park's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Park consented to the described sanctions and to the entry of findings that he made discretionary trades in customers' accounts in separate

securities, when on dates of the trades, he did not speak with any of the customers to obtain authorization to buy or sell securities in their accounts prior to submitting each of the trades on a discretionary basis in the customer accounts. The findings stated that none of the customers had provided Park or his member firm with written authorization to exercise discretion in their accounts.

The suspension was in effect from October 18, 2010, through November 5, 2010. (CRD #2008016232901)

**Heather D. Pepo (CRD #4858338, Registered Representative, Dallastown, Pennsylvania)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Pepo converted approximately \$12,198 of her member firm's affiliated bank funds by crediting her personal checking and savings accounts without the bank's knowledge or authorization. The findings stated that the funds were the amount of fees that the bank had charged Pepo for servicing her accounts and she admitted to the bank that she had granted herself "fee waivers" of the bank fees. The findings also stated that Pepo failed to appear for FINRA on-the-record interviews. (FINRA Case #2008014734701)

**Scott Douglas Pionk (CRD #2056512, Registered Principal, Clinton Township, Michigan)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Pionk consented to the described sanction and to the entry of findings that he solicited \$1.7 million from investors, including firm customers, and deposited the funds into his private company's bank accounts over which he had sole control, representing to the customers that he would use the money to make legitimate investments on their behalf. The findings stated that Pionk made approximately \$500,000 in interest payments to earlier investors using funds he received from later investors and converted substantially all of the remaining funds to his personal benefit by making checks payable to him or withdrawing cash from ATMs. The findings also stated that Pionk failed to respond to FINRA requests for documents and to appear for an on-the-record interview. (FINRA Case #2009018512901)

**Robert John Postma (CRD #4555987, Registered Representative, Hilliard, Ohio)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any member firm in any capacity for one month. The fine must be paid either immediately upon Postma's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Postma consented to the described sanctions and to the entry of findings that he signed another registered representative's name to an investment application and agreement and an investor profile questionnaire and disclosures that a customer had signed to open an account because the representative was not in the office. The findings stated that Postma submitted the documents to his member firm's affiliate without the representative's knowledge or consent.

The suspension was in effect from November 1, 2010, through November 30, 2010. (FINRA Case #2009019449201)

**Kevin Scott Pound (CRD #2564356, Associated Person, Ventura, California)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Pound participated in private securities transactions by selling promissory notes without giving prior written notice to, or obtaining prior written approval from, his member firm. The findings stated that Pound failed to timely respond to FINRA's request for information. **(FINRA Case #2008012531501)**

**Kenya Reed (ID #11027587, Associated Person, Bayonne, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity and agreed to continue to cooperate with FINRA in an ongoing investigation relating to this matter. Without admitting or denying the findings, Reed consented to the described sanction and to the entry of findings that she participated in a scheme that involved causing fraudulent checks to be issued, drawn from her member firm's bank account. The findings stated that in connection with the scheme, Reed prepared fraudulent check requests and disbursed numerous checks drawn on her firm's bank account in various amounts under \$1,000 and totaling over \$290,000. The findings also stated that the checks were made payable to entities that did not provide services to her firm; this was done under the guise that the entities were firm-authorized transfer agents and the payments were for related fees. The findings also included that Reed's coworker provided her with fictitious billing invoices from such entities and, in turn, Reed initiated check requests through the firm's computer system to pay the fictitious fees; the check requests were processed and approved, and the checks issued and delivered back to the securities processing area, where Reed worked.

FINRA found that upon receipt of the checks, Reed gave the checks to her coworker, who provided them to a third party not employed by the firm; in return for initiating and processing the fictitious check requests, Reed received periodic cash payments from her coworker, totaling an estimated \$10,000, for her own personal use. FINRA also found that the firm became aware of this matter when the New York City Police Department contacted it regarding an individual (a non-firm employee) who was taken into custody in an unrelated matter; the individual was in possession of certain of the firm checks issued as a result of the scheme. In addition, FINRA determined that the firm investigated the matter, including questioning Reed, who admitted that she engaged in the above-referenced conduct; the firm then terminated Reed's employment. **(FINRA Case #2009017054201)**

**Dwight John Schaefer (CRD #1966520, Registered Representative, Waterloo, Illinois)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for four months. The fine must be paid either immediately upon Schaefer's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Schaefer consented to the described sanctions and to the entry of findings that, despite knowledge of his member firm's change in policy regarding the sale of equity indexed annuities that all business be sold and processed through the firm and representatives were only to sell specific annuities offered by firm-approved annuity companies, he sold annuities to customers, including firm

customers, and did not sell or process the transactions through his firm and did not provide written notice to the firm of his intention to engage in outside business activities. The findings stated that the sales totaled approximately \$1,856,597, and Schaefer was compensated approximately \$93,163. The findings also stated that Schaefer completed an annual questionnaire in which he falsely answered that he did not offer or sell equity indexed annuities to his clients.

The suspension is in effect from November 15, 2010, through March 14, 2011. **(FINRA Case #2008012636401)**

**Alan D. Schell (CRD #4955739, Registered Representative, Glen Burnie, Maryland)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Schell converted \$17,410 from a bank customer by making unauthorized withdrawals from the customer's certificates of deposit (CDs). The findings stated that when Schell was confronted about the withdrawals, he admitted he had taken the money to fund an inner-city girls' basketball team. The findings also stated that Schell failed to respond to FINRA requests for information and documents. **(FINRA Case #2009017694001)**

**Cory Todd Schmelzer (CRD #2822157, Registered Principal, San Marcos, California)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$7,500 and suspended from association with any FINRA member in any principal capacity for 15 business days. Without admitting or denying the findings, Schmelzer consented to the described sanctions and to the entry of findings that he failed to fulfill his supervisory responsibilities over the activities of a registered representative under his supervision at his member firm. The findings stated that the registered representative recommended that his insurance business customers participate in a Stock to Cash program, offered by a third-party entity under which customers would pledge stock to obtain loans to purchase other products; and the representative's customers, including clients of the firm, participated in the program at his recommendation, obtaining loans of more than \$4.2 million in the aggregate. The findings also stated that Schmelzer failed to ensure that the registered representative promptly disclose his participation in the program to the firm, and failed to ensure that the registered representative promptly disclose to his firm his recommendations that his customers utilize the program, even after he learned that the representative had ignored his prior instruction to make such disclosure. The findings also included that, as a result of Schmelzer's supervisory deficiencies, the representative engaged in conduct that the firm deemed inappropriate and which potentially put the firm's clients' assets at risk.

The suspension is in effect from December 6, 2010, through December 24, 2010. **(FINRA Case #2007008935002)**

**Brian Joseph Sekelsky (CRD #2869906, Registered Representative, Glen Allen, Virginia)** submitted an Offer of Settlement in which he was suspended from association with any FINRA member in any capacity for eight months. In light of Sekelsky's financial status, no monetary sanctions have been imposed. Without admitting or denying the

allegations, Sekelsky consented to the described sanction and to the entry of findings that he failed to timely execute customers' instructions to sell, and did not contact the customers until after the assets had been sold, causing the customers to incur a loss of \$23,747.64. The findings stated that Sekelsky purchased shares of a company's stock in a customer's IRA account and sold the position without the customer's prior knowledge, authorization or consent. The findings also stated that Sekelsky failed to appear for a FINRA on-the-record interview.

The suspension is in effect from November 15, 2010, through July 14, 2011. **(FINRA Case #2009017623801)**

**Julio Enrique Serrano (CRD #1603068, Registered Representative, Brooklyn, New York)** was fined \$26,000 and suspended from association with any FINRA member in any capacity for 12 months. The fine is payable upon Serrano's return to the securities industry. The sanctions were based on findings that Serrano entered into a formal "Advisor Agreement" with a financial public relations firm. The findings stated that the website issued press releases recommending specific securities to the public, with the releases implying that the recommendations were made by Serrano, whom they identified by name and CRD number as a registered person the website employed. The findings also stated that Serrano failed to provide written notice of this outside business activity to either of the member firms through which he was registered, and signed a disclosure document in which he specifically and falsely denied that he was engaging in any outside business activity. The findings also included that Serrano acknowledged in a letter to FINRA that he had failed to disclose his outside employment to his member firms and conceded in on-the-record testimony that he was obligated to disclose the outside activity to both firms.

The suspension is in effect from October 18, 2010, through October 17, 2011. **(FINRA Case #2009017710701)**

**Stephen Nicholas Severio (CRD #2633956, Registered Representative, Fair Haven, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Severio consented to the described sanction and to the entry of findings that he solicited customers at his member firm to invest in a purported arbitrage investment which he stated would be held away from his firm. The findings stated that Severio told these clients that he would invest their funds and pay them the principal amount invested plus interest of 15 percent to 20 percent after six months. The findings also stated that each of the customers gave Severio a check personally made out to him in amounts ranging from \$5,000 to \$75,000 for a total of \$685,653, with the intention that he invest the money in his arbitrage investment as he indicated; but instead, Severio cashed the checks and converted the money for his own personal use. The findings also included that Severio failed to respond to FINRA's requests for information and failed to appear for his on-the-record testimony. **(FINRA Case #2008015083301)**

**Kelvin Shaw (CRD #4226230, Registered Representative, Temecula, California)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Shaw consented to the described sanction and to the entry of findings that he violated his member firm's policies and procedures when he recommended that certain customers invest in a non-FINRA regulated investment group outside of his firm that operated as a commodity pool, and facilitated the day-to-day interactions between certain customers and the commodity pool without providing his firm with written notice. The findings stated that Shaw used, and directed others in his office to use, unapproved email addresses that prevented the firm from reviewing communications regarding his activities. The findings also stated that the commodity pool was exposed as a Ponzi scheme and most of Shaw's firm customers lost a total of approximately \$660,000 of their investments. The findings also included that Shaw failed to use the firm's email system on numerous occasions when communicating regarding firm business, and its customers and the firm relied on his compliance to meet its requirements under SEC Rule 17a-4. FINRA found that Shaw directed certain of his staff to communicate with the commodity pool using non-firm email addresses and advised customers not to use firm email addresses for communications regarding the commodity pool in order to prevent the firm from detecting his involvement in the commodity pool. In addition, FINRA determined that Shaw caused his firm to fail to retain certain email communications related to its business. Moreover, FINRA found that Shaw failed to fully and completely respond to a FINRA request for documents and information. **(FINRA Case #2008015411502)**

**Jack Clark Smith Jr. (CRD #427869, Registered Principal, San Diego, California)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$15,000 and suspended from association with any FINRA member in any principal capacity for 25 business days. The fine must be paid either immediately upon Smith's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Smith consented to the described sanctions and to the entry of findings that, in his capacity as the president of a member firm, he failed to reasonably supervise a firm registered principal. The findings stated that Smith did not take steps to inquire into red flags indicating the registered principal's possible misconduct, and failed to follow-up on the registered principal's outside business activities and excessive absences from the firm. The findings also stated that Smith subsequently failed to timely investigate allegations that the registered principal was participating in private securities transactions away from the firm, and once the firm confirmed the selling away activities, Smith, in his capacity as president, took no steps to place the registered principal on heightened supervision.

The suspension is in effect from November 15, 2010, through December 20, 2010.  
**(FINRA Case #2007011125102)**

**Scarlett Loree Smith (CRD #2809794, Registered Representative, Knoxville, Tennessee)** submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Smith consented to the described sanction and to the entry of findings that

she submitted false expense reports to her FINRA member firm and the firm reimbursed her for non-business-related expenses in the total amount of \$2,971.57. The findings stated that Smith altered receipts and expense reimbursement requests for personal expenses to her firm to make it appear that she was meeting with customers in various locations. **(FINRA Case #2010021373001)**

**Scott George Steffek (CRD #4217891, Registered Representative, Crown Point, Indiana)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Steffek failed to respond to FINRA requests for information and documentation. **(FINRA Case #2008014677601)**

**Brian Patrick Troy (CRD #2822291, Registered Representative, Keller, Texas)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Troy consented to the described sanction and to the entry of findings that he earned over \$250,000 in commissions by illegally transferring retirement accounts valued at approximately \$9 million from the State of Texas' Retirement System to his member firm's private retirement accounts. The findings stated that in order to effect the transfers, Troy forged certain records, and altered or falsified transfer documents to indicate that the employees had retired, been fired or otherwise separated from their employers. The findings also stated that, in reality, the employees were still employed and Texas law prohibits public employees from transferring money from certain state retirement accounts until after employment ends. The findings also included that in other instances, Troy made misrepresentations to employees in order to get them to agree to the transfers and to execute the transfer documents. FINRA found that Troy failed to respond to a FINRA request for information regarding these facts. **(FINRA Case #2009020760401)**

**Rosalind Monique Washington (CRD #5410219, Associated Person, Dallas, Texas)** submitted a Letter of Acceptance, Waiver and Consent in which she was suspended from association with any FINRA member in any capacity for one year. In light of Washington's financial status, no monetary sanctions have been imposed. Without admitting or denying the findings, Washington consented to the described sanction and to the entry of findings that she was a non-registered fingerprint individual employed in an administrative capacity with a member firm, and during the course of her duties, she had access to voided checks the firm's clients provided the firm to initiate online fund transfers from other institutions where they maintained accounts. The findings stated that Washington improperly used a firm customer's funds by entering the customer's banking information from his voided check to transfer funds for the purpose of making an online payment for her \$450.52 mobile phone bill.

The suspension is in effect from November 1, 2010, through October 31, 2011. **(FINRA Case #2009018323101)**

**Robert Lee Yingling (CRD #2042847, Registered Representative, Colorado Springs, Colorado)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$7,500, which includes disgorgement of his commissions, and suspended from association with any FINRA member in any capacity for 15 business days. Without

admitting or denying the findings, Yingling consented to the described sanctions and to the entry of findings that he participated in a sale totaling \$45,118.25 worth of ULPs to members of the public, and failed to provide his member firm with written notice about the sales and failed to obtain his firm's written approval. The findings stated that Yingling received approximately \$2,099.91 in commissions from the sales of ULPs.

The suspension was in effect from November 15, 2010, through December 6, 2010.  
(FINRA Case #2009016709014)

## Complaints Filed

**FINRA issued the following complaints. Issuance of a disciplinary complaint represents FINRA's initiation of a formal proceeding in which findings as to the allegations in the complaint have not been made and does not represent a decision as to any of the allegations contained in the complaint. Because these complaints are unadjudicated, you may wish to contact the respondents before drawing any conclusions regarding these allegations in the complaint.**

**Richard Harold Byerly (CRD #848070, Registered Representative, Chester Springs, Pennsylvania)** was named as a respondent in a FINRA complaint alleging that he engaged in unsuitable, excessive trading in elderly customers' accounts, and recommended and effected transactions without having reasonable grounds for believing that such transactions were suitable for the customers in view of the size and frequency of the transactions, the transaction costs incurred, and in light of the customers' financial situations, investment objectives and needs. The complaint alleges that Byerly exercised discretion in effecting the majority of the securities transactions as well as in other customers' accounts without the customers' prior written authorization or his member firm's written acceptance of the accounts as discretionary; his firm did not permit discretionary accounts. The complaint also alleges that Byerly continuously misrepresented to his firm on annual compliance questionnaires that he did not maintain any accounts in which he had exercised discretion. The complaint further alleges that Byerly submitted a letter to FINRA regarding a customer complaint in which he falsely misrepresented that he had received a customer's prior approval for all trades in the customer's account. (FINRA Case #2009017492201)

**Jeryl Wayne Clegg (CRD #2542818, Registered Representative, Powder Springs, Georgia)** was named as a respondent in a FINRA complaint alleging that he caused a withdrawal of approximately \$7,000 from customers' variable annuity accounts and converted the funds, which were in the form of checks, by depositing the funds into his business account and using the funds for his own benefit without the customers' knowledge and consent. The complaint alleges that Clegg failed to respond to FINRA requests for information. (FINRA Case #2010022209101)

**Reba Rose Cope (CRD #5056512, Associated Person, Crossnore, North Carolina)** was named as a respondent in a FINRA complaint alleging that she converted approximately \$9,878.89 from a customer who had instructed her to use the proceeds from a maturing CD to purchase two new CDs in two different individuals' names. The

complaint alleges that Cope purchased one of the CDs, took the \$9,878.89 proceeds that were to be used to purchase the second CD, converted the funds to a cashier's check payable to the person for whom the CD was to be opened and held it until a later date, upon which she cashed the cashier's check and kept the money for her own personal use. The complaint also alleges that Cope failed to respond to FINRA requests for documents and information. **(FINRA Case #2009020243101)**

**Salvatore Demeo Jr. (CRD #2927685, Registered Representative, Phoenix, Arizona)** was named as a respondent in a FINRA complaint alleging that he misappropriated \$9,417.11 from a customer's bank savings account, without the customer's knowledge or authorization, deposited the funds into a bank account under his exclusive control and ownership, and used the funds for his personal benefit. The complaint also alleges that Demeo failed to appear for FINRA on-the-record testimony. **(FINRA Case #2009018139301)**

**Michael Paul Dickamore (CRD #4189328, Registered Representative, Farmington, Utah)** was named as a respondent in a FINRA complaint alleging that he used his member firm's corporate credit card for personal expenses in the amount of \$50,980.94 without the firm's permission or authority. The complaint alleges that Dickamore submitted the charges as business expenses for firm reimbursement; the firm reimbursed him. The complaint also alleges that Dickamore failed to respond to FINRA requests for information and failed to appear for testimony. **(FINRA Case #2009017212301)**

**Michael Douglas Larsen (CRD #4796817, Registered Representative, Staten Island, New York)** was named as a respondent in a FINRA complaint alleging that he debited a bank customer's checking account approximately \$94,000, purchased a check in that amount payable to an entity, placed it into the account under the customer's name and then executed an internal form with the entity that effectively changed the name on the account to an entity that Larsen owned and controlled, thereby misappropriating the customer's money. The complaint alleges that Larsen, through his entity, received dividends totaling approximately \$48,000 from the initial \$94,000 investment, but neither remitted nor credited any of the dividends to the customer; the customer did not authorize Larsen to use any of his funds for Larsen's personal benefit. The complaint also alleges that Larsen debited approximately \$261,000 from the customer's bank checking account and used approximately \$255,000 to issue a check payable to the entity he owned and controlled which was not an investment for the customer's benefit as represented to the customer. The complaint further alleges that Larsen used a debit card associated with his entity to make purchases for personal expenses totaling approximately \$72,000, which were made with money belonging to the customer, without the customer's authorization. In addition, the complaint alleges that Larsen failed to respond to FINRA requests for documents. **(FINRA Case #2009018143701)**

**Sourichanh Malivarn (CRD #4722533, Registered Representative, Rockford, Illinois)** was named as a respondent in a FINRA complaint alleging that she used her position as a licensed banker to create a personal installment loan account at the bank where she was employed in the name of a bank customer and, thereafter, withdrew \$10,000 in loan proceeds, without the customer's or the bank's knowledge or permission. The

complaint alleges that Malivarn manipulated the address on the loan account so that correspondence, including the loan billing statement, would be directed to the banking center at her branch office of the bank, and not sent to the customer's home address. The complaint also alleges that Malivarn made approximately \$600 in payments on the loan and used the remainder of the funds for her own purposes. The complaint further alleges that Malivarn failed to respond to FINRA requests for information. **(FINRA Case #2009020085601)**

**Maxxtrade, Inc. (CRD #106471, Lexington, Kentucky), Myron David Schneidt (CRD #1560906, Registered Principal, Lexington, Kentucky) and Shlomi Steven Eplboim (CRD #2417002, Registered Representative, Tarzana, California)** were named as respondents in a FINRA complaint alleging that the firm, acting through Schneidt and Eplboim, charged customers markups or markdowns in corporate bond transactions, which were not fair and reasonable, were not disclosed to customers and nothing in the nature of its business or in the bond trades justified the size of the markups or markdowns. The complaint alleges that the firm and Schneidt failed to establish and maintain an adequate supervisory system, including written procedures, designed to ensure that the firm and its registered representatives complied with NASD Rule 2440 and charged markups/markdowns on corporate bond transactions that were fair and reasonable. The complaint also alleges that the firm and Schneidt failed to file a Branch Registration Form (Form BR) to register a branch in any capacity with NASD and then FINRA. The complaint further alleges that the firm and Schneidt failed to evidence any principal approval of new accounts, securities transactions or correspondence used in securities transactions by individuals located at that branch, and failed to review the representatives' communications with firm customers; failed to require that the representatives attend any annual compliance meeting or interview; failed to hold any training meeting on compliance matters with the representatives; failed to conduct any inspection of the branch office; and the firm, acting through Schneidt, failed to prepare and implement a heightened supervision plan for representatives at the branch for several years. In addition, the complaint alleges that the firm, acting through Schneidt, failed to establish, maintain and enforce supervisory control policies and procedures addressing numerous areas; prepared inadequate annual internal audit reports because they failed to address obvious supervisory weaknesses; failed to prepare certifications that the firm had procedures in place to establish, maintain, review, test and modify written compliance policies and written supervisory procedures reasonably designed to achieve compliance with applicable rules and securities laws; failed to implement heightened supervision for customer account activity of a registered representative; and failed to correct deficiencies in supervisory policies and procedures as FINRA requested. Moreover, the complaint alleges that the firm and Schneidt failed to timely file or amend Forms U4, and failed to report an arbitration on Forms U5. Furthermore, the complaint alleges that the firm and Schneidt failed to respond to FINRA requests for information and documents. **(FINRA Case #2008011759202)**

**Jeremy James McGilvrey (CRD #4167743, Registered Principal, San Antonio, Texas)** was named as a respondent in a FINRA complaint alleging that he participated in private securities transactions by assisting in the sale of stock repurchase agreements and a promissory note without providing written notice of his intention to participate to his member firms, and failing to obtain the firms' written approval. The complaint alleges that McGilvrey received and converted approximately \$1,782,500 he received from elderly customers' funds for his personal use; McGilvrey falsely told the clients that their funds would be used for the expansion of a business. **(FINRA Case #2009018290001)**

**Jose Luis Vinas (CRD #4014454, Registered Representative, Houston, Texas)** was named as a respondent in a FINRA complaint alleging that he converted approximately \$3.3 million from firm customers while he served as the registered representative responsible for these customers' brokerage accounts. The complaint alleges that Vinas asked customers to sign blank documents, including firm documents that were printed in English when none of the customers spoke or read English, and the customers complied with Vinas' request. The complaint also alleges that a variable credit line account was opened at the firm in the customers' names and Vinas submitted or caused to be submitted applications requesting increases in the credit line that the firm approved, but the customers had not authorized the opening of the credit account or the subsequent credit increases, nor were they aware of the existence of the credit account. The complaint further alleges that Vinas forged, or caused to be forged, customers' signatures on Letters of Authorization (LOAs) he submitted to his firm purportedly authorizing the transfer of customer funds without these customers' authorization or knowledge. In addition, the complaint alleges that Vinas submitted or caused to be submitted to his firm verbal letters of authorization purportedly for third party wire transfers without the customers' authorization or knowledge, nor with any of these customers receiving any benefit from the funds withdrawn and transferred. Moreover, the complaint alleges that Vinas closed the customers' account at one firm and transferred the balance to another firm without the customers' knowledge or consent, and presented false account documents to customers, which reflected fictitious account balances. Furthermore, the complaint alleges that Vinas failed to respond to FINRA requests to appear for testimony. **(FINRA Case #2009017198901)**

**Ernesto Zuniga Gomez (CRD #4713558, Registered Representative, San Diego, California)** was named as a respondent in a FINRA complaint alleging that he created Verbal Authorization Forms (VAFs) that falsely represented that clients had given him verbal authorization to transfer client funds from their accounts to other client accounts, thereby misusing customer funds. The complaint alleges that the VAFs contained false and misleading explanations as to the reasons for the fund transfers, which Zuniga's managers approved. The complaint also alleges that Zuniga caused his firm's records to be inaccurate as a result of the false VAFs. The complaint further alleges that Zuniga failed to respond to FINRA requests for information and documents. **(FINRA Case #2008015692801)**

**Firms Suspended for Failure to Supply Financial Information Pursuant to FINRA Rule 9552**

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

**Iron Capital Securities, LLC**  
Mill Valley, California  
(October 7, 2010)

**Pyramid Financial Corp.**  
Cupertino, California  
(October 1, 2010)

**Sharemaster**  
Hemet, California  
(October 6, 2010)

**Firms Suspended for Failure to Pay Annual Assessment Fees Pursuant to FINRA Rule 9553**

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

**Sierra Equity Group LLC**  
Boca Raton, Florida  
(October 12, 2010)

**Wallstreet\*E Financial Services, Inc.**  
Coral Gables, Florida  
(October 25, 2010)

**Firms Suspended for Failure to Pay Arbitration Fees Pursuant to FINRA Rule 9553**

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

**Gonow Securities, Inc.**  
Los Angeles, California  
(October 19, 2010 – November 2, 2010)

**Prestige Financial Center, Inc.**  
New York, New York  
(October 21, 2010)

**Westrock Advisors, Inc.**  
New York, New York  
(October 21, 2010)

**Firm Suspended for Failing to Pay Arbitration Awards Pursuant to FINRA Rule 9554**

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

**Global Trading Group, Inc.**  
Westbury, New York  
(October 7, 2010)

**Individuals Revoked for Failing to Pay Fines and/or Costs Pursuant to FINRA Rule 8320**

(If the revocation has been rescinded, the date follows the revocation date.)

**James William Garofalo Jr.**  
New York, New York  
(October 14, 2010)

**Bryan E. Muller**  
Seaford, New York  
(September 24, 2008 – October 18, 2010)

**Michael M. Reilly**  
New York, New York  
(October 5, 2010)

**Individuals Barred Pursuant to FINRA Rule 9552(h)**

(If the bar has been vacated, the date follows the bar date.)

**Jon Murat Beret**  
Los Angeles, California  
(October 4, 2010)

**John Michael Curran**  
Coppell, Texas  
(October 18, 2010)

**Catalina Izquierdo-Escobar**  
Stamford, Connecticut  
(October 12, 2010)

**Lawrence Howard Joseph Foont**  
Elmhurst, New York  
(October 25, 2010)

**Clifford Lee Greenwald**  
Taylorsville, Utah  
(October 22, 2010)

**Jeffrey Paul LaCross**  
North Plainfield, New Jersey  
(October 29, 2010)

**Ismael Moran**  
McAllen, Texas  
(October 12, 2010)

**Carlos Juan Ortiz**  
Chicago, Illinois  
(October 4, 2010)

**James Arthur Ponder**  
Ocala, Florida  
(October 29, 2010)

**Daniel Romero**  
Albuquerque, New Mexico  
(October 19, 2010)

**Bret Nelson Shofner**  
Boca Raton, Florida  
(October 12, 2010)

**Michael John Tecklenburg**  
Fishkill, New York  
(October 12, 2010)

**Individuals Suspended Pursuant to FINRA Rule 9552(d)**

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

**Trudy K. Bui**  
Houston, Texas  
(October 25, 2010)

**Denise Lynn Gizankis**  
Jacksonville, Florida  
(October 21, 2010)

**Jason Philip Hopper**  
Englewood, Colorado  
(October 15, 2010)

**Vincent Ardelle Littlefield**  
Voorhees, New Jersey  
(October 22, 2010)

**Nolan Wayne Moore**  
Beaumont, California  
(May 21, 2010 – October 26, 2010)

**Leonel Ramirez**  
New Britain, Connecticut  
(August 9, 2010 – October 26, 2010)

**Justin Robert Robinson**  
Englewood, Colorado  
(October 18, 2010)

**Marie Darlene Roy**  
North Babylon, New York  
(October 4, 2010)

**Patrick James Sullivan**  
Cumberland, Rhode Island  
(October 18, 2010)

**Genina Victoria Vaughn**  
Blue Bell, Pennsylvania  
(October 22, 2010)

**Individuals Suspended for Failure to Comply with an Arbitration Award or Settlement Agreement Pursuant to FINRA Rule 9554**

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

**William Michael Banks**  
Southport, Connecticut  
(October 14, 2010)

**Freddie Thomas Brown**  
Bowie, Maryland  
(October 7, 2010)

**Jason John Cooney**  
Port Neches, Texas  
(September 8, 2010)

**John Gerard Forrester Jr.**  
Wellington, Florida  
(October 15, 2010 – October 29, 2010)

**Lloyd William Graham Jr.**  
Pasadena, California  
(September 22, 2010)

**Brent M. Haag**  
Grand Ledge, Michigan  
(October 7, 2010)

**Sherrey Annette Harper**  
Houston, Texas  
(October 14, 2010)

**Timothy Neal Hartman**  
Minden, Nevada  
(October 7, 2010)

**Justin Michael Hensley**  
Las Vegas, Nevada  
(October 14, 2010)

**Keith Carvell Jackson**  
Overland Park, Kansas  
(October 14, 2010)

**William Francis Lex**  
Valley Forge, Pennsylvania  
(October 14, 2010)

**Steven Lester Luna**  
Hernando, Mississippi  
(October 7, 2010)

**Kenneth Michael Myers**  
Redwood City, California  
(October 14, 2010)

**William Savary**  
Westbury, New York  
(October 7, 2010)

**James Harry Sumpter**  
Santa Rosa, Florida  
(October 14, 2010)

**Ronald Dale Tenison**  
Grants Pass, Oregon  
(October 7, 2010)

## **FINRA Orders Ferris, Baker Watts to Pay Nearly \$700,000 for Inappropriate Sales of Reverse Convertible Notes**

### **Firm to Pay Restitution of \$189,723 for Unsuitable Sales**

The Financial Industry Regulatory Authority (FINRA) has fined the former Ferris, Baker Watts LLC, acquired by RBC Wealth Management, \$500,000 for inadequate supervision of sales of reverse convertible notes to retail customers as well as unsuitable sales of reverse convertibles to 57 accounts held by elderly customers who were at least 85 years old and customers with a modest net worth.

The firm was ordered to pay nearly \$190,000 in restitution to the 57 account holders for net losses incurred as a result of purchasing reverse convertibles.

“Reverse convertible notes are complex investments that often entail significant risk of loss and also involve terms, features and risks that can be difficult for retail investors to evaluate,” said James Shorris, FINRA Executive Vice President and Acting Chief of Enforcement. “Ferris, Baker’s inadequate written procedures resulted in recommendations of sales to customers for whom the purchase of these securities was not suitable, including elderly customers and investors who had very modest assets.”

Reverse convertibles are notes with a coupon interest rate set for a fixed duration—three, six or twelve months—that are tied to the performance of a particular stock. If the price of the underlying stock drops below a certain level during the duration of the reverse convertible, the customer receives a predetermined number of shares of the stock at maturity of the note.

Conversely, if the underlying security maintains its price level, at maturity, the customer receives return of the dollar amount invested and a final coupon payment. In most of the instances where customers received the underlying stock at maturity, the customer ended up with an investment loss. Reverse convertibles not only come with the risks associated with fixed income products, such as issuer default and inflation, but with the additional risk that the value of the underlying asset can significantly depreciate.

FINRA found that during the period January 2006 to July 2008, Ferris, Baker engaged in sales of reverse convertibles to approximately 2,000 retail accounts without providing sufficient guidance to its brokers and supervising managers on how to assess suitability in connection with their brokers’ recommendations of reverse convertibles.

Additionally, the firm did not have a system to effectively monitor customer accounts for potential over-concentrations in reverse convertibles. The firm also made recommendations without a reasonable basis to believe that the investment was suitable for elderly customers and those with modest net worth. The firm also failed to detect and respond to indications of potential over-concentration in reverse convertibles.

In one instance, the firm sold an 86-year-old retired social worker five reverse convertibles in the amount of \$10,000 each. At various times, these represented between 15 percent and 25 percent of her investment portfolio. In another instance, the firm sold a 20-year-old clerk making less than \$25,000 annually five reverse convertibles in his Roth IRA and regular accounts. These securities represented 51 percent of the IRA account and 44 percent of the regular account's value.

In concluding this settlement, the firm neither admitted nor denied the charges, but consented to the entry of FINRA's findings.