

# Disciplinary and Other FINRA Actions

## Firm Expelled, Individual Sanctioned

**Mission Securities Corporation (CRD #41779, San Diego, California) and Craig Michael Biddick (CRD #2382884, Registered Principal, Rancho Santa Fe, California).** The firm was expelled from FINRA® membership and Biddick was barred from association with any FINRA member in any capacity. The firm and Biddick were ordered to pay \$38,946.06, plus interest, in disgorgement to firm customers. The Securities and Exchange Commission (SEC) sustained the sanctions following appeal of a National Adjudicatory Council (NAC) decision. The sanctions were based on findings that the firm and Biddick converted and misused customer securities. The SEC affirmed the NAC's findings that the firm and Biddick intentionally caused the transfer of securities from customers' accounts to the firm's account without any prior authorization from, or notification to, these customers. The findings also stated that the firm and Biddick then sold a portion of the converted shares and used some of the proceeds for the firm's operating expenses. **(FINRA Case #2006003738501)**

## Firms Fined

**Assent LLC (CRD #104162, Jersey City, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$37,500 and required to revise its written supervisory procedures regarding SEC Rules 611(a)(2) and (c) of Regulation NMS, order handling, best execution (regular and rigorous review and the three quote rule), trade reporting modifiers, sales transactions, trading through a trading halt, sub-penny transactions, multiple Market Participant Identifiers (MPIDs), and rules applicable to alternative trading systems (ATS) and Electronic Communications Networks (ECNs). Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted reports to the Order Audit Trail System™ (OATS™) that contained inaccurate, incomplete or improperly formatted data, in that the reports contained incorrect customer identification flags, incorrectly included immediate or cancel time in force instructions, failed to include the special handling code, one report contained an inaccurate cancellation time, and the firm failed to transmit one customer order to OATS. The findings stated that the firm made available a report on the covered orders in national market system securities it received for execution from any person that included incorrect information as to the number of covered orders. The findings also stated that the firm made publicly available a report on its routing of non-directed orders in covered securities that included incomplete information as to options listed securities. The findings also included that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with SEC Rules 611(a)(2) and (c) of Regulation NMS.

## Reported for April 2011

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).

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 adequate written supervisory procedures in order handling, best execution (regular and rigorous review and the three quote rule); trade reporting modifiers, sales transactions, trading through a trading halt, sub-penny transactions, multiple MPIDs, and rules applicable to ATS and ECNs. **(FINRA Case #2010021587601)**

**Brean Murray, Carret & Co., LLC (CRD #23723, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$17,500 and required to revise its written supervisory procedures regarding regarding SEC Rules 611(a)(1) and (c) of Regulation NMS; order handling; best execution (order-by-order routing, and regular and rigorous reviews); anti-intimidation/coordination (educate personnel); trade reporting; sale transactions; short sale reporting, Regulation SHO Rule 204, prompt delivery, short sale orders and aged fails, naked short selling antifraud rule; clearly erroneous transactions; accurate buy, short sale and long sale entry in NASDAQ system; books and records; and review for compliance of incoming, outgoing and internal electronic communication.

Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to provide written notification disclosing to its customer its correct capacities in the transaction and also failed to provide written notification disclosing to its customer that it was a market-maker in each security when it acted as principal for its own account, and sometimes the transaction was executed at an average price and these written notifications also did not include the firm's correct capacity in the transaction. The findings stated that the firm failed to establish, maintain and enforce written policies and procedures reasonably designed to prevent trade-throughs of protected quotations in national market securities (NMS) stocks that do not fall within any applicable exception and if relying on an exception, are reasonably designed to assure compliance with the terms of the exception. The findings also stated that the firm failed to take reasonable steps to establish that the inter-market sweep orders it routed met the definitional requirements set forth in Rule 600(b)(30) of Regulation NMS. 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 minimum requirements for adequate written supervisory procedures regarding SEC Rules 611(a)(1) and (c) of Regulation NMS; order handling; best execution (order-by-order routing, and regular and rigorous reviews); anti-intimidation/coordination (educate personnel); trade reporting; sale transactions; short sale reporting, Regulation SHO Rule 204, prompt delivery, short sale orders and aged fails, naked short selling antifraud rule; clearly erroneous transactions; accurate buy, short sale and long sale entry in NASDAQ system; books and records; and review for compliance of incoming, outgoing and internal electronic communication. FINRA found that the firm failed to provide documentary evidence that it performed the supervisory reviews set forth in its written supervisory procedures concerning OATS on the trade dates reviewed. **(FINRA Case #2009017005501)**

**Cantor Fitzgerald & Co. (CRD #134, New York, New York)** 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 Trade Reporting and Compliance Engine™ (TRACE™)-eligible securities to TRACE. The findings stated that the firm failed, within 90 seconds after execution, to transmit last sale reports of transactions in OTC equity securities to the OTC Reporting Facility (OTCRF), and the firm failed to designate some of these last sale reports as late. **(FINRA Case #2008016384101)**

**National Securities Corporation (CRD #7569, Seattle, Washington)** submitted an Offer of Settlement in which the firm was censured and fined \$22,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to file required amendments to Uniform Applications for Securities Industry Registration or Transfer (Forms U4), filed late Forms U4 amendments and filed inaccurate Forms U4. The findings stated that the firm filed late amendments to Uniform Termination Notices for Securities Industry Registration (Forms U5), filed inaccurate Forms U5 and filed a Form U5 that failed to disclose a customer complaint against a registered representative. The findings also stated that the firm failed to report statistical and summary information regarding a customer complaint, failed to timely report statistical and summary information regarding customer complaints, and filed inaccurate reports of statistical and summary information regarding complaints. **(FINRA Case #2008011571801)**

**Noble International Investments, Inc. (CRD #15768, Boca Raton, Florida)** 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 executed short sale transactions and failed to report each of the transactions to the OTCRF with a short sale modifier. The findings stated that the firm failed to provide written notification disclosing to its customer that transactions were executed at an average price and, for one of these occasions, also failed to disclose that it was a market maker in each such security. The findings also stated that the firm failed to show the correct entry time on brokerage order memoranda and failed to show the correct execution price on the memorandum for one of these brokerage orders. The findings also included that the firm failed to preserve, for a period of not less than three years, the first two in an accessible place, one customer confirmation and a copy of the firm's SEC Rule 606 reports made publicly available for several calendar quarters. **(FINRA Case #2008014711601)**

**Purshe Kaplan Sterling Investments, Inc. (CRD #35747, Albany, New York)** 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 failed to establish, maintain and/or enforce a supervisory system and written procedures reasonably designed to achieve compliance with the rules and regulations applicable to the supervision and suitability of variable

annuity transactions by, among other things, failing to review such transactions on a timely basis, supplying adequate guidance to supervisors to effectively review the suitability of variable annuity exchanges and the subaccount and rider recommendations associated with variable annuity sales, and implementing reasonable means of identifying suspicious patterns involving variable annuity exchanges, such as exception reports. The findings stated that the firm further failed to establish, maintain and enforce written supervisory control policies and procedures reasonably designed to review and monitor transmittal of customer funds. The findings also stated that with respect to certain customer check requests, the firm failed to provide a means or method of customer confirmation, notification or follow-up that could be documented, and the procedures did not address whether a registered representative was allowed to deliver the check to a client. The findings also included that since the firm did not require a customer letter of authorization or copies of driver's licenses for check requests below \$25,000, a registered representative could request the issuance of such checks without having to provide the firm with any documentation indicating customer approval of the request.

FINRA found that as a result of the firm's deficient control policies and procedures concerning the transmittal of customer funds, a former firm registered representative was able to misappropriate \$41,300 from a customer by submitting separate check request forms for that customer's account for amounts under \$25,000. FINRA also found that the firm was unable to determine from its records the delivery dates or check recipients. In addition, FINRA determined that the customer's signature was forged on the checks, which were cashed at the same bank location where the representative maintained an account. **(FINRA Case #2009016218601)**

**Rafferty Capital Markets, LLC (CRD #23682, Garden City, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$87,500 and required to revise its written supervisory procedures regarding TRACE and municipal securities reporting, and books and records compliance. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report information regarding transactions effected in municipal securities to the Real-time Transaction Reporting System (RTRS) within 15 minutes of trade time and failed to report the correct trade time to an RTRS Portal. The findings stated that the firm failed to show the correct execution time on the memoranda of transactions in municipal and TRACE-eligible securities. The findings also stated that the firm failed to report transactions in TRACE-eligible securities to TRACE within 15 minutes of execution time, and failed to report the correct trade execution time for these transactions to TRACE. 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, MSRB rules and/or FINRA rules concerning TRACE, and municipal securities reporting and books and records compliance. **(FINRA Case #2009018644601)**

**Regal Securities, Inc. (CRD #7297, Glenview, Illinois)** 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 permitted its registered representatives to use the firm's inventory accounts for personal trades. The findings stated that the firm permitted this activity to give registered representatives the benefit of average pricing to manage several personal accounts and for simple general convenience; any trades employees placed in the firm's accounts were to be booked to the employees' personal accounts by the end of the trading day. The findings also stated that a registered representative at the firm who was responsible for processing trade orders for the firm's discount brokerage clients had access to the firm's inventory account, which he used to process the trades made based on third-party advisers' recommendations. The findings also included that the representative fraudulently deprived customers of best executions in multiple instances by processing options trades in his firm's inventory account that its clearing firm executed, and by crediting customer accounts with inferior prices to the actual street price.

FINRA found that the representative then created a fictitious transaction to journal a portion of the difference between the street price and the inferior price booked to client accounts from the inventory account to his personal accounts, thereby misappropriating \$1,305 from the firm's customers. FINRA also found that even though the firm permitted personal trading in its inventory account, it had no supervisory system or procedure (written or otherwise) to detect if employees were engaging in fraudulent activities. In addition, FINRA determined that the firm had no way of identifying whether a trade that occurred within the inventory account was a customer's transaction or one of its registered representatives' personal trades, and the individual exploited this lack of oversight to misappropriate money from the firm's customers. **(FINRA Case #2010022046701)**

**Robert W. Baird & Co. Incorporated (CRD #8158, Milwaukee, Wisconsin)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$900,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to establish and maintain a supervisory system reasonably designed to achieve compliance with applicable securities laws and regulations, including written policies and procedures and written supervisory policies and procedures, in regard to Regulation SHO.

The findings stated that Baird's order entry systems did not prevent the release of significant numbers of proprietary, institutional, retail and employee short sale orders for execution without valid locates, in violation of Regulation SHO. The findings also stated that Baird's non-compliance with locate requirements was not corrected in a timely fashion because the firm's post-trade review was not reasonable for the purpose of determining, retroactively, whether locates had been properly obtained and granted. The findings also stated Baird's Stock Loan Department systematically failed to provide locates and/or properly document locates for short sale orders. The findings also included that Baird

did not allocate adequate resources, including Stock Loan personnel, to the process of granting and documenting locates, and failed to adequately train Stock Loan personnel regarding the requirements of Regulation SHO. FINRA found that as a result of Baird's order entry system and Stock Loan deficiencies, Baird released hundreds of short sale orders for execution without obtaining and/or documenting locates. FINRA also found that additional locate violations occurred because Baird misapplied the bona-fide market maker exception to the locate requirement in connection with customer facilitation, non-bona fide market making short sales and proprietary hedge short sales. In addition, FINRA found that Baird failed to disclose its market maker status on approximately 693 equity research reports involving 360 different securities in which it was a market maker.

Moreover, FINRA found that Baird's Regulation SHO violations were extensive due to the patchwork of systems, policies, and procedures implemented by the Firm in 2005 that contained multiple gaps and in certain instances contained incorrect instructions for compliance with Regulation SHO; specifically, the firm failed to designate effective compliance personnel as responsible for the firm's overall compliance with Regulation SHO. Furthermore, FINRA found that the firm failed to allocate adequate resources and Stock Loan personnel to the process of granting and documenting locates, and failed to adequately train Stock Loan personnel regarding the requirements of Regulation SHO including the documentation of locate requests and approvals. Additionally, the firm failed to establish and maintain adequate written policies and procedures and written supervisory policies and procedures reasonably designed to achieve overall compliance with Regulation SHO, compliance with the applicable securities laws in connection with becoming a registered market maker in securities, and compliance with the applicable securities laws in connection with the use of the market maker exception to the locate requirement. Baird further failed to implement reasonable procedures relating to the inclusion of research report disclosures concerning market making activities. **(FINRA Case #2008013127801)**

**Woodrock Securities, L.P. (CRD #133653, Houston, Texas)** 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 ensure that investor funds from an offering were deposited into an escrow account during the offering's contingency period. The findings stated that the firm participated in a best efforts, "minimum-maximum" offering an entity conducted, and the offering summary stated that if the minimum offering amount was not raised during the offering period, the funds held in the segregated account would be returned to the investors; but prior to the minimum offering amount being raised, the issuer withdrew and utilized funds from the bank account. The findings also stated that after only \$600,000 had been raised, the issuer withdrew \$199,000 and utilized the funds to make a down payment on a portfolio of defaulted auto loans so that the minimum offering amount was not obtained until a later date. The findings also included that the representation in

the offering summary that investor funds would be placed in a segregated account until the minimum offering amount had been received was rendered false when the issuer utilized investor funds before the minimum offering amount was raised. **(FINRA Case #2009016279401)**

## Firm Sanctioned

**Workman Securities Corporation (CRD #31898, Eden Prairie, Minnesota)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and ordered to pay \$700,000 in partial restitution to investors. The firm was also ordered to certify in writing to FINRA that it has established and implemented a system and procedures reasonably designed to achieve compliance with recordkeeping requirements related to electronic communications, and provide a written report to FINRA describing the policies, procedures and controls it has established and implemented related to the integrity of the retention and retrieval process for electronic communications, and the supervisory system it has implemented to oversee the preservation of electronic communications.

Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to have reasonable grounds to believe that a private placement an entity offered pursuant to Regulation D was suitable for any customer, after it received red flags that the entity had financial issues and was not timely making interest payments, but continued to sell the offering to customers. The findings stated that the firm failed to enforce a supervisory system reasonably designed to achieve compliance with applicable securities laws and regulations, and NASD and FINRA rules in connection with the sale of private placements, and failed to conduct adequate due diligence of the private placements or confirm that its representatives were doing their own due diligence. The findings also stated that the firm failed to conduct adequate due diligence of private placements other entities offered, and failed to enforce a supervisory system reasonably designed to achieve compliance with applicable securities laws and regulations, and NASD and FINRA rules in connection with the sale of the private placements the entities offered pursuant to Regulation D. The findings also included that the firm reviewed cursory private placement memoranda (PPMs) for the offerings, failed to investigate red flags or analyze third-party sources of information or take affirmative steps to ensure the information in the offering documents was accurate.

FINRA found that the firm failed to preserve electronic communications in a non-rewritable, non-erasable or "WORM" format that complied with books and records requirements, and the firm used third-party software for storing and retaining electronic communications that did not comply with the requirements of SEC Rule 17a-4(f). FINRA also found that the firm was informed that its electronic storage medium was non-compliant but did not take adequate remedial action to retain email properly. **(FINRA Case #2009018818401)**



## Individuals Barred or Suspended

**Kelli Jo Bauer (CRD #3091117, Registered Representative, Overland Park, Kansas)** 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 60 days. The fine must be paid either immediately upon Bauer'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, Bauer consented to the described sanctions and to the entry of findings that she failed to disclose material information to her member firms and never completed a Form U4 amendment to answer relevant questions until after her firm terminated her.

The suspension is in effect from February 22, 2011, through April 22, 2011. **(FINRA Case #2009019541001)**

**Gary Chew (CRD #1966956, Registered Representative, Lafayette, California)** 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 three months. The fine must be paid either immediately upon Chew'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, Chew consented to the described sanctions and to the entry of findings that he engaged in a private securities transaction, by purchasing shares of stock via subscription agreement, outside the regular scope of his employment with his member firm and without providing prior written notice of this private securities transaction to the firm. The findings stated that Chew engaged in an outside business activity, as the president and sole owner of an entity, without providing prompt written notice to his firm. The findings also stated that Chew made false statements and attestations to his firm when he completed compliance questionnaires and annual attestations on which he declared to the firm that he had not personally invested in any private security transaction outside of the firm, that he was not "engaged in any outside activity either as a proprietor, partner, officer, director, trustee, employee, agent or otherwise," and that he did not participate in any outside business activities except for those previously disclosed to, and approved in writing by, the firm.

The suspension is in effect from March 7, 2011, through June 6, 2011. **(FINRA Case #2008014479002)**

**Thomas Anthony Chrestman (CRD #1135841, Registered Representative, Cordova, Tennessee)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$20,000 and suspended from association with any FINRA member in any capacity for three months. Without admitting or denying the findings, Chrestman consented to the described sanctions and to the entry of findings that he engaged in pre-arranged trading of collateralized mortgage obligation (CMO) bonds in a trading account of his member firm. The findings stated that Chrestman effected CMO bond transactions in the firm's trading



account for which a registered principal/trader or another trader, whose transactions the principal also coordinated, was the contra-party. The findings also stated that the transactions were pre-arranged and directed by the registered principal, who set the price of the bonds and, simultaneously, agreed to repurchase them from Chrestman at a specified time, at an agreed-upon price that provided Chrestman with a profit. The findings also included that Chrestman participated in the pre-arranged trading with the registered principal because the principal asked that he do so; Chrestman was not familiar with all of the risks and attributes of the “inverse floater” CMOs that he was trading with the principal, and did not ascertain whether the transaction prices were at or away from the current market.

FINRA found that the registered principal consistently repurchased, or caused the repurchase of, the bonds within a short time after Chrestman acquired them, the transactions were not without risk and an increasing number of the transactions occurred at prices away from the current independent market. FINRA also found that had the principal failed to repurchase those CMO bonds, the firm’s trading account would have owned them at a price exceeding the price the firm was likely to obtain in an open-market sell transaction.

The suspension is in effect from March 21, 2011, through June 20, 2011. **(FINRA Case #2008012444204)**

**Jeryl Wayne Clegg (CRD #2542818, Registered Representative, Powder Springs, Georgia)** 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, Clegg consented to the described sanction and to the entry of findings 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 findings stated that Clegg failed to respond to FINRA requests for information. **(FINRA Case #2010022209101)**

**Perry Mario Colletti (CRD #4741059, Registered Representative, North Massapequa, 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 six months. The fine must be paid either immediately upon Colletti’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, Colletti consented to the described sanctions and to the entry of findings that he filed, or caused to be filed, an initial Form U4 with a member firm on which he willfully failed to disclose material information.

The suspension is in effect from March 7, 2011, through September 6, 2011. **(FINRA Case #2009020957201)**

**David Lewis Conner (CRD #2021704, Registered Representative, Gastonia, North Carolina)** 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 capacity for two years. The fine must be paid either immediately upon Conner'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, Conner consented to the described sanctions and to the entry of findings that he engaged in business activities for compensation outside the scope of his business relationship with his member firm, without providing his firm with prompt written notice of these activities. The findings stated that Conner sold Equity Indexed Annuities (EIAs) valued at over \$20 million without submitting the EIA applications to his firm for review and approval, as the firm required. The findings also stated that when Conner became registered with the firm, he did not notify the firm that he was engaged in the sale of EIAs. The findings also included that Conner signed an Equity Indexed Annuities Verification Form in which he indicated that he was currently selling EIAs, and Conner added in his own handwriting that he had not sold an indexed annuity since a certain date, and that he would forward any future applications to the firm for approval.

FINRA found that this attestation was false because Conner continued to sell EIAs without submitting the applications to the firm for approval. FINRA also found that Conner signed an annual compliance certification affirming that all annuity applications (including variable and equity index) have been sent and would be sent to an Office of Supervisory Jurisdiction (OSJ) for processing and approval. In addition, FINRA determined that during a certain period, Conner did not submit any EIA applications to the firm for review and approval.

The suspension is in effect from February 22, 2011, through February 21, 2013. **(FINRA Case #2009020865801)**

**Daniel A. Contreras (CRD #4151950, Registered Principal, Ontario, 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, Contreras consented to the described sanction and to the entry of findings that he engaged in private securities transactions by recommending that customers invest in promissory notes, which were not approved investments of his member firm. The findings stated that Contreras failed to provide written notice to his firm describing in detail the proposed transactions and his proposed role therein, and stating whether he had received, or might receive, selling compensation in connection with the transactions. The findings also stated that the company that issued the promissory notes filed for Chapter 13 Bankruptcy, and all of Contreras' customers lost their entire investment. The findings also included that Contreras borrowed approximately \$65,000 from his customers, contrary to his firm's written procedures prohibiting registered representatives from borrowing money or securities from any prospects or customers, including non-firm prospects/customers, and Contreras failed

to pay back any of the money he borrowed. FINRA found that Contreras failed to respond to FINRA requests for information and testimony. **(FINRA Case #2009018398701)**

**Joseph John Daveniero (CRD #2671680, Registered Representative, Mahwah, New Jersey)** submitted an Offer of Settlement in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for 18 months. The fine must be paid either immediately upon Daveniero'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 allegations, Daveniero consented to the described sanctions and to the entry of findings that he failed to timely respond to FINRA requests for information and documents.

The suspension is in effect from February 22, 2011, through August 21, 2012. **(FINRA Case #2008016167201)**

**Joey Wade Dean (CRD #3061136, Registered Representative, Hot Springs, Arkansas)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Dean willfully made material misrepresentations and omissions to customers that were either intentional or reckless in connection with the purchase of securities. The findings stated that Dean sold the customers unsecured firm debts and misrepresented that their principal was protected and falsely guaranteed the customers a rate of return. The findings also stated that Dean executed unauthorized sales of shares of the securities from customers' accounts. The findings also included that Dean recommended and effected unsuitable transactions in customers' accounts because of the extraordinary concentration of a single issuer's securities in the customers' accounts. **(FINRA Case #2008012833801)**

**James Gabor Doering (CRD #2490669, Registered Principal, Lenexa, Kansas)** 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. Without admitting or denying the findings, Doering consented to the described sanctions and to the entry of findings that he willfully failed to disclose material information on his Form U4. The findings stated that Doering completed annual certifications for his member firm in which he falsely answered "no" to whether he had been the subject of a Form U4 reportable event.

The suspension is in effect from March 7, 2011, through July 6, 2011. **(FINRA Case #2009018661401)**

**Scott Michael Epstein (CRD #4268699, Registered Representative, Marlboro, New Jersey)** was barred from association with any FINRA member in any capacity. The United States Court of Appeals for the Third Circuit denied Epstein's petition for review, affirming the SEC's decision to uphold the bar the NAC imposed. The sanction was based on findings that Epstein recommended and effected unsuitable mutual fund switch transactions without

having reasonable grounds for believing that the transactions were suitable for public customers in view of the nature of the recommended transactions, and in light of the customers' financial situations, investment objectives, circumstances and needs. (FINRA Case #C9B20040098)

**Charles Joseph Fiorucci (CRD #1527771, Registered Representative, Palm Coast, 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 six months. The fine must be paid either immediately upon Fiorucci'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, Fiorucci consented to the described sanctions and to the entry of findings that he relocated his business from a broker-dealer in one state to a broker-dealer in another state, and during the process of moving his customer accounts, Fiorucci falsified customer signatures on new account forms and change in broker-dealer forms. The findings stated that some of these customers consented to his signing these documents on their behalf, but others did not. The findings also stated that the firm's written supervisory procedures specifically prohibited registered representatives from falsifying and/or forging customers' signatures on transaction documents and/or other documents.

The suspension is in effect from February 22, 2011, through August 21, 2011 (FINRA Case #2010022424201)

**Earnest Flowers III (CRD #2547561, Registered Representative, Laurelton, New York)** 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, Flowers consented to the described sanction and to the entry of findings that in connection with the sale of investments in a film production company, Flowers made fraudulent misrepresentations and omitted to disclose material information. The findings stated that Flowers collected at least \$92,000 from investors, falsely representing that he would use their funds to finance a film production business and promising exorbitant, guaranteed returns. The findings also stated that instead of investing the funds, Flowers misused \$30,498 to repay other investors and pay for personal expenses without the investors' knowledge, consent or authorization. The findings also included that Flowers made recommendations to a customer to invest in private placement offerings that were unsuitable in light of the customer's financial situation, investment objective and financial needs.

FINRA found that Flowers attempted to settle away customers' complaints without his member firm's knowledge or consent. FINRA also found that Flowers signed an attestation form for a firm acknowledging that email communications with the public must be sent through the firm's email address and copied to the compliance department, but Flowers communicated with customers via unapproved, outside email accounts without his member firms' knowledge or consent, and as a result of his outside communications, his

member firms were unable to review his emails to firm customers. In addition, FINRA determined that Flowers engaged in private securities transactions without providing prior written notice to, and receiving prior written approval from, his member firms. (FINRA Case #2009016956601)

**Alvin Waino Gebhart Jr. (CRD #1005905, Registered Principal, Fallbrook, California) and Donna Traina Gebhart (CRD #2708528, Registered Principal, Fallbrook, California).** Alvin Gebhart was barred from association with any FINRA member in any capacity. Donna Gebhart was fined \$15,000, suspended from association with any FINRA member in any capacity for one year, and must requalify by exam in all capacities. The Supreme Court of the United States denied a petition following the United States Court of Appeals for the Ninth Circuit's denial of petition for review. The SEC had previously sustained the NAC decision.

The sanctions were based on findings that Alvin and Donna Gebhart engaged in private securities transactions without prior written notification to, or prior approval from, their member firm. The findings stated that Alvin and Donna Gebhart sold unregistered securities that were not exempt from registration, and recklessly made material misrepresentations and omissions in connection with the sale of securities.

Donna Gebhart's suspension is in effect from June 7, 2010, through June 6, 2011. (FINRA Case #C0220020057)

**Daniel Goldman (CRD #1695027, Registered Representative, Morganville, New Jersey)** 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, Goldman consented to the described sanctions and to the entry of findings that he effected discretionary transactions in a customer's securities account without written authorization and without his member firm's written acceptance of the account as discretionary. The findings stated that Goldman's firm prohibited discretionary trading in this type of customer account.

The suspension was in effect from February 22, 2011, through March 7, 2011. (FINRA Case #2009018769601)

**Thomas Jeffery Gregory (CRD #3177280, Registered Representative, Orlando, 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 month. The fine must be paid either immediately upon Gregory'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, Gregory consented to the described sanctions and to the entry of findings that he allowed an internal wholesaler at a firm to improperly assist him in completing a state-required long-term care continuing education (CE) examination. The findings stated that

Gregory called an internal wholesaler and asked her if she could provide him with answers to questions on the long-term care CE examination for a state. The findings also stated that the wholesaler provided him with answers to the examination over the phone while he was completing the examination online.

The suspension was in effect from February 22, 2011, through March 21, 2011. **(FINRA Case #2009021029704)**

**Anthony Edward Guaimano (CRD #1634902, Registered Principal, Alamo, California)** 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 weeks. Without admitting or denying the findings, Guaimano consented to the described sanctions and to the entry of findings that he engaged in pre-arranged trading of CMO bonds in a proprietary trading account of his member firm. The findings stated that Guaimano effected CMO bond trades, consisting of paired purchases and sales, in the firm's proprietary trading account with a registered principal and trader as the contra-party. The findings also stated that each pair of matched transactions was pre-arranged and directed by the registered principal. The findings also included that the registered principal and Guaimano traded the bonds at prices consistent with the current market for the securities; simultaneously, the registered principal agreed to repurchase them from Guaimano, at a specified time, at an agreed-upon price that usually provided Guaimano's firm with a profit.

FINRA found that Guaimano participated in pre-arranged transactions in which he did not take a profit, but as a result of the riskless principal CMO transactions in the proprietary account, Guaimano generated trading profits, markups and interest income for his firm of approximately \$455,144.23. FINRA also found that Guaimano participated in the pre-arranged trading with the principal as an accommodation based upon Guaimano's belief that the principal was "refreshing" his CMO bond inventory in order to maintain positions he wished to maintain and still be in technical compliance with inventory risk controls at his employer relative to the length of time positions that could be held in proprietary accounts. In addition, FINRA determined that Guaimano knew, or should have known, that the pre-arranged nature of the trades, particularly the agreement that the principal would repurchase the securities in short order, caused beneficial ownership of the securities to remain with the principal's employer. Moreover, FINRA found that Guaimano should have known that the principal's effort to create the appearance of compliance with the inventory restrictions by liquidating positions could only succeed if the principal concealed from his employer the fact that he had committed to repurchase the bonds from Guaimano at the same or a higher price. Furthermore, FINRA found that Guaimano should have known that his participation in the pre-arranged transactions enabled the principal to deceive his employer as to its inventory positions and risk.

The suspension is in effect from March 21, 2011, through May 1, 2011. **(FINRA Case #2008012444205)**

**Jennifer J. Guelinas (CRD #2814512, Registered Representative, Valparaiso, Indiana)** 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, Guelinas consented to the described sanction and to the entry of findings that she converted at least \$500,000 from the brokerage accounts of senior citizen customers of her member firm by signing, without authorization, wire transfer requests which resulted in the conversion of the funds from the customers' accounts to outside bank accounts she controlled and to third parties; the customers did not authorize the transfers. The findings stated that Guelinas, without authorization, signed wire transfer requests, real estate purchase agreements and a promissory note on senior citizen customers' behalf. The findings also stated that Guelinas arranged and participated in real estate investments with senior citizen customers of her member firm and received compensation. The findings also included that Guelinas received compensation from a rental apartment she owned and failed to disclose the real estate investments, the compensation from the investments or the rental income to her member firm. FINRA found that Guelinas failed to disclose material information on her Form U4. **(FINRA Case #2010025098101)**

**Robert Jon Herboth (CRD #4078706, Registered Representative, Woodridge, 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 60 days. Without admitting or denying the findings, Herboth consented to the described sanctions and to the entry of findings that pursuant to verbal authority from his customers, he exercised discretion in the customers' accounts without their prior written authorization and his member firm's prior written acceptance of the accounts as discretionary.

The suspension is in effect from March 7, 2011, through May 5, 2011. **(FINRA Case #2008015057601)**

**Linda Louise Johnson (CRD #4287779, Registered Representative, Roscoe, Illinois)** 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 six months. The fine must be paid either immediately upon Johnson'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, Johnson consented to the described sanctions and to the entry of findings that she affixed the signatures of members of the public on documents to open a joint account and transfer mutual fund shares into the account, without their knowledge and consent, and submitted the forms to her member firm for processing. The findings stated that Johnson had a registered sales assistant execute a "Signature Guarantee" for the customers' signatures on the account transfer forms, based on Johnson's representation to the assistant that she witnessed the customers sign the documents, which she knew was not true. The findings also stated that during all relevant times, Johnson's firm had a policy which prohibited representatives from signing documents or requesting anyone to sign



documents on another person's behalf, even if that person gave permission to do so. The findings also included that Johnson affixed one of the customer's signature on a Letter of Instruction, which directed a member firm to sell \$25,000 worth of the mutual fund that the customer owned, and forward the proceeds to Johnson.

FINRA found that while the customer authorized the transaction, Johnson affixed the customer's signature to the document without the customer's knowledge or consent, and bypassed her firm's internal procedures requiring its operations department to review the document prior to submission to the mutual fund. FINRA also found that Johnson altered portions of an Individual Retirement Account (IRA) Distribution Request Form that another customer had completed by changing the date and dollar amount on the form; she then submitted the altered form for a distribution of funds. In addition, FINRA determined that while the customer authorized the distribution of funds, Johnson altered the form without the customer's knowledge and consent.

The suspension is in effect from March 7, 2011, through September 6, 2011. (FINRA Case #2010021494801)

**Gifford Keith Jordon (CRD #2620616, Registered Representative, Springdale, Arkansas)** 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, Jordon consented to the described sanction and to the entry of findings that he participated in private securities transactions for which he received approximately \$48,585 in commissions and failed to provide prior written notice to his member firm. The findings stated that Jordon concealed his participation because he did not believe his firm would approve the activity and completed the firm's compliance questionnaires without disclosing the private securities transactions. (FINRA Case #2010024417101)

**Hyon Chu Kang (CRD #1482340, Registered Representative, Bayside, New York)** 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 60 days. The fine must be paid either immediately upon Kang'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, Kang consented to the described sanctions and to the entry of findings that she made loans totaling at least \$294,000 to a firm customer who was also a close personal friend. The findings stated that Kang made the loans, in the form of cash and checks to the customer, to assist the customer in meeting her business obligations. The findings also stated that the customer signed promissory notes; the customer died and Kang has not been fully repaid. The findings included that at the time she made the loans, Kang was aware that her member firm did not permit loans from or to customers unless they were immediate family members; however, Kang did not obtain pre-approval from her firm prior to lending monies to the customer, nor did she otherwise inform the firm of the loans.

The suspension is in effect from March 7, 2011, through May 5, 2011. (FINRA Case #2010022258701)

**Susan Mae Karn (CRD #5218398, Registered Representative, Wimbledon, North Dakota)** 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 six months. The fine must be paid either immediately upon Karn'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, Karn consented to the described sanctions and to the entry of findings that she allowed a customer to sign relatives' names on life insurance applications, and before Karn submitted them for processing, she signed the insurance applications and certified that she had witnessed each of the proposed signatures on the insurance applications. The findings stated that Karn falsely certified on the Representative's Information Supplement document for each insurance application that she had personally seen each proposed insured at the time the application was completed. The findings also stated that one of Karn's clients completed an application to purchase a municipal bond fund by signing her name on an electronic signature pad, and later that same day, Karn signed the client's name on the electronic signature pad and thereby affixed the client's signature on an application without the client's authorization, consent or knowledge. The findings also included that the application Karn's member firm processed and sent to the client reflected the signature Karn had affixed rather than the client's authentic signature. FINRA found that when the firm questioned Karn about the authenticity of the client's signature, Karn initially stated it was the client's original signature, but when questioned further, admitted she had signed the client's name and in doing so, Karn misled her firm during its internal investigation into a customer complaint.

The suspension is in effect from March 7, 2011, through September 6, 2011. (FINRA Case #2010022067901)

**Mark David Kaufman (CRD #2774897, Registered Representative, Boca Raton, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member in any capacity for six months. In light of Kaufman's financial status, no monetary sanctions have been imposed. Without admitting or denying the findings, Kaufman consented to the described sanction and to the entry of findings that while exercising control over a customer's IRA, he excessively traded the account in a manner that was inconsistent with the customer's investment objectives, financial situation and needs. The findings stated that Kaufman recommended transactions to the customer without having reasonable grounds for believing that such transactions were suitable for the customer. The findings also stated that Kaufman's recommendations were unsuitable for the customer in light of the frequency of the transactions, the relatively large size of some of the positions in various equity securities, which caused her account to be over-concentrated, and the customer's investment objectives, financial situation and

needs. The findings also included that Kaufman's trading resulted in losses of \$93,352 in the customer's IRA and generated gross commissions of approximately \$41,583.

The suspension is in effect from March 7, 2011, through September 6, 2011. **(FINRA Case #2008013958501)**

**Michael William Keleher (CRD #3244480, Registered Representative, Kenilworth, New Jersey)** 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, Keleher consented to the described sanction and to the entry of findings that he falsified elderly customers' account information forms and used those forms to open commission-based brokerage accounts the customers did not authorize. The findings stated that Keleher made unauthorized transactions in customer accounts and received \$16,694.28 in commissions. The findings also stated that Keleher paid \$78,266 in commissions to an unregistered individual. **(FINRA Case #2008013229701)**

**Robert Lee Keys (CRD #720689, Registered Principal, Portland, Oregon)** 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, Keys consented to the described sanction and to the entry of findings that he made untrue statements and omissions in connection with the sale of a security; specifically, Keys recommended that a customer invest \$1.1 million in a promissory note and represented to the customer that the promissory note was secured by \$1.1 million in United States Treasury Bonds, when in fact, no such bonds existed. The findings stated that Keys provided wiring instructions to the customer in connection with the recommended purchase directing her to wire funds to the bank account of the issuing entity's owner. The findings also stated that Keys failed to investigate and discover that no treasury bonds existed, and instead relied on information he was given during a conference call initiated by the issuer's owner to an unknown individual who claimed to be a representative of a well-known financial institution, the purported current custodian of the bonds; and Keys failed to investigate whether the unknown individual was in fact the financial institution's employee. The findings also included that at the time of Keys' recommendation to the customer, he did not disclose the compensation, direct or indirect, that he expected to receive.

FINRA found that the first time the customer discovered that any commission would be paid in connection with the sale of the note was when she received the note itself, delivered several weeks after she had wired the funds for the purchase; the note disclosed that a commission would be paid in connection with the note, but it erroneously stated that \$50,000 would be paid to Keys' member firm, and it did not disclose that Keys wholly owned the entity that received an additional \$50,000. In addition, FINRA determined that Keys was responsible for establishing, maintaining and enforcing his firm's supervisory control policies and procedures, but failed to implement reasonable supervisory controls when he failed to ensure that an individual at the firm who was senior to or otherwise independent of himself supervised and reviewed his customer account activity. **(FINRA Case #2009017125101)**

**Christopher Malchin (CRD #4474871, Registered Representative, Plainfield, 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 six months. The fine must be paid either immediately upon Malchin'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, Malchin consented to the described sanctions and to the entry of findings that he utilized his business credit card for personal expenses and submitted false expense reports to his member firm, pursuant to which he was reimbursed approximately \$1,806 for expenses that were not business-related.

The suspension is in effect from February 22, 2011, through August 21, 2011. **(FINRA Case #2010021389601)**

**Jeff David Mann (CRD #4623626, Registered Representative, Freehold, New Jersey)** 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 Mann'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, Mann consented to the described sanctions and to the entry of findings that he backdated annuity applications and annuity acknowledgement forms for clients to provide higher interest rates on the annuity contracts than the annuity company was offering. The findings stated that Mann backdated the documents to make it appear as if the customers had signed the paperwork at a date when the interest rate the annuity company offered was higher than the interest rate when Mann sold the annuities to his client.

The suspension is in effect from March 7, 2011, through December 6, 2011. **(FINRA Case #2009017868801)**

**George Henry Martin (CRD #2888367, Registered Principal, Sunny Isles Beach, 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, Martin consented to the described sanction and to the entry of findings that he failed to provide investigative testimony as FINRA requested. **(FINRA Case #2009020779101)**

**Janet A. McDermott (CRD #2538860, Registered Supervisor, Pembroke Pines, Florida)** 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, McDermott consented to the described sanction and to the entry of findings that she effected transactions, including checks, debits and automatic teller machine (ATM) withdrawals, in the aggregate amount of approximately \$11,403 on her personal account at her member firm's subsidiary, for which she did not have sufficient funds. The findings

stated that McDermott opened a personal account at the subsidiary from where she began effecting transactions in amounts that she knew, or should have known, exceeded her available balance. The findings also stated that this pattern continued, with McDermott causing transactions to occur on her account without sufficient funds until her account showed a month-ending deficit of \$4,756, which included non-sufficient funds (NSF) charges of \$2,130. The findings also included that write-offs in the amount of \$1,056 and a deposit of \$3,700 reduced the deficit in her account to zero.

FINRA found that during a second period, McDermott again effected transactions on the account when she knew, or should have known, she had insufficient funds to cover the transactions. FINRA also found that McDermott failed to make a single deposit during this time to pay for the transactions, which caused her account to have a deficit of \$7,049, which included NSF charges of \$430. In addition, FINRA determined that the firm terminated McDermott's employment as a result of her conduct. **(FINRA Case #2010022100601)**

**Richard Mark McKinnon (CRD #728601, Registered Representative, Carmichael, 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, McKinnon consented to the described sanction and to the entry of findings that he recommended the purchase of bonds, bond funds and annuities to an elderly customer who entrusted McKinnon with funds for their purchase. The findings stated that McKinnon deposited the funds into his personal bank account and made improper use of the funds, which included payment of personal expenses. The findings also stated that McKinnon accepted additional funds from the customer, which he used for personal expenses, and accepted additional funds from the customer in exchange for a promissory note he signed. The findings also included that McKinnon did not notify his member firm nor obtain its approval prior to entering into this arrangement with the customer. FINRA found that McKinnon provided false and misleading statements during FINRA testimony regarding the amount of funds he had accepted from the customer, the disposition of the funds and his purchases of securities for the customer in connection with the receipt of the funds. **(FINRA Case #2010024397801)**

**Scott Thomas McNiff (CRD #4357913, Registered Representative, Hopkins, Minnesota)** 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 McNiff'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, McNiff consented to the described sanctions and to the entry of findings that he willfully failed to timely disclose material information to his member firm and never completed amending a Form U4.

The suspension is in effect from February 22, 2011, through August 21, 2011. **(FINRA Case #2010023138801)**

**Fabio Migliaccio (CRD #2590550, Registered Principal, Brooklyn, New York)** submitted an Offer of Settlement in which he was suspended from association with any FINRA member in any capacity for 24 months. Without admitting or denying the allegations, Migliaccio consented to the described sanction and to the entry of findings that he failed to timely appear for FINRA investigative testimony. The findings stated that after FINRA filed a complaint against him, Migliaccio appeared and provided testimony pursuant to FINRA Rule 8210.

The suspension is in effect from February 22, 2011, through February 21, 2013. **(FINRA Case #2007011366403)**

**Courtlandt Gerdes Miller (CRD #1645887, Registered Principal, New York, New York)** submitted an Offer of Settlement in which he was fined \$7,500 and suspended from association with any FINRA member in any capacity for 10 business days. Without admitting or denying the allegations, Miller consented to the described sanctions and to the entry of findings that he caused a research report to be published on a website that he had previously operated when he was the owner and president of a former FINRA member firm. The findings stated that Miller caused a press release to be issued by a public relations firm announcing the research report that was distributed to financial wire services. The findings also stated that Miller did not inform or obtain approval from his member firm where he was registered regarding either the intention to publish the report on the former FINRA member firm's website, or cause a press release to be issued announcing the research report. The findings also included that neither the website nor the press release were approved by signature or initial and dated by a principal of firm where Miller was registered.

FINRA found that Miller's firm filed an application with FINRA seeking approval for the firm to produce and distribute research reports. FINRA also found that Miller was aware that the application had been filed and at the time the research report was published and the press release issued, the application was still pending and FINRA had not approved it. In addition, FINRA determined that even though Miller knew that his firm had filed the application, he took no steps to ascertain whether or not the application had been approved. Moreover, FINRA found that Miller caused his firm to engage in the production and distribution of a research report at a time when it was not approved to do so. Furthermore, FINRA found that the research report and press release contained false information that stated it was prepared by a member firm although it had withdrawn its membership and was no longer a FINRA member firm.

The suspension was in effect from March 21, 2011, through April 1, 2011. **(FINRA Case #2008013183601)**

**Kevin Leslie Moyer (CRD #2340238, Registered Principal, Deland, 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 30 business days. The fine must be paid either immediately upon Moyer'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, Moyer consented to the described sanctions and to the entry of findings that he effected discretionary transactions in a customer's account without obtaining the customer's or his member firm's written authorization. The findings stated that the customer and her relative each had an account for which Moyer was the broker, and a company they owned together had an account for which Moyer was the broker as well. The findings also stated that Moyer spoke regularly to the relative about transactions in all the accounts, but only received prior authorization for the transactions in the customer's account from her for a minimum of the transactions, and the customer had not given her relative trading authority over her account. The findings also included that Moyer's firm had not permitted its registered representatives to exercise discretion in customer accounts during this time.

The suspension was in effect from February 22, 2011, through April 4, 2011. (FINRA Case #2009020137301)

**Richard Anthony Neaton (CRD #2585328, Registered Representative, Port Charlotte, Florida)** was barred from association with any FINRA member in any capacity. The NAC imposed the sanction following appeal of an Office of Hearing Officers (OHO) decision. The sanction was based on findings that Neaton willfully failed to disclose material information on his Form U4.

This decision has been appealed to the SEC and the bar is in effect pending consideration of the appeal. (FINRA Case #2007009082902)

**Thomas Preston Osborn (CRD #353710, Registered Representative, Lexington, Kentucky)** 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 Osborn'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, Osborn consented to the described sanctions and to the entry of findings that he failed to provide a timely response to FINRA requests for documents and information.

The suspension is in effect from February 22, 2011, through August 21, 2011. (FINRA Case #2010021961202)



**Ernesto Paiz (CRD #4582379, Registered Representative, Houston, Texas)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Paiz misappropriated customer insurance premium payments totaling more than \$7,400. The findings stated that Paiz reflected customer insurance payments on remittance reports to his member firm but did not deposit the full amount of the payments into the Agent Group Banking account as the firm required, and misappropriated \$1,746.93 using this method. The findings also stated that customers made cash insurance payments totaling \$3,333.64 but Paiz did not apply any payment to one account and applied partial amounts to other customers' accounts, thereby misappropriating \$2,498.64. The findings also included that Paiz' customers made insurance premium payments by check totaling \$3,201.05, but Paiz credited the payments to another customer and to his own account. FINRA found that Paiz failed to respond to FINRA requests for information. **(FINRA Case #2009018211101)**

**Frank Anthony Perrotto (CRD #2284028, Registered Representative, Janesville, 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, Perrotto consented to the described sanction and to the entry of findings that he recommended that his customer purchase a fixed annuity for \$100,000, helped the customer complete the annuity application form, received the \$100,000 check from the customer, and without the customer's knowledge and authorization, endorsed the check to himself, never submitted the annuity application, and deposited the \$100,000 into his bank account for his own personal benefit. The findings stated that Perrotto created a false annuity contract and further created bogus annuity statements that he provided to the customer to conceal his misconduct. The findings also stated that after Perrotto's misconduct was discovered, he paid total restitution of \$100,000 to the customer. The findings also included that Perrotto failed to appear and provide testimony as FINRA requested. **(FINRA Case #2010021313401)**

**Brian Edwin Raines (CRD #2687245, Registered Representative, Pickens, South Carolina)** 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 Raines' 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, Raines consented to the described sanctions and to the entry of findings that he signed or acquiesced in the signing of customer signatures without the customers' knowledge or authorization on forms and documents related to the customers' brokerage accounts. The findings stated that the forms and documents included new account forms, investment advisory service agreements, annuity applications, annuity surrender/withdrawal forms, annuity 1035 exchange forms, real estate investment trust applications and financial planning forms. The findings also stated that Raines knew that his member firm did not permit employees to sign the customers' names on documentation related to their accounts.

The suspension is in effect from March 7, 2011, through March 6, 2013. (FINRA Case #2009017411901)

**DaLean Annette Rials (CRD #1925012, Registered Supervisor, Clearwater, Florida)** 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, Rials consented to the described sanction and to the entry of findings that she misappropriated approximately \$70,000 from her member firm. The findings stated that Rials, as operations manager of her firm's branch office, had authority to approve credits to customer accounts up to a specified dollar amount without additional approval. The findings also stated that Rials used this authority to credit reimbursements totaling approximately \$50,000 for non-existent fees and expenses in accounts belonging to her friends and family. The findings also included that Rials then withdrew the credited amounts from family accounts or received cash or checks from friends for the credited amounts. FINRA found that Rials submitted expense reports for approximately \$20,000 in personal expenses, falsely identifying them as legitimate business expenses. FINRA also found that Rials improperly accessed her supervisor's computer and approved some of her own expenses reports. (FINRA Case #2009019405601)

**John Milton Rose (CRD #1704277, Registered Representative, Sandusky, 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 10 business days. Without admitting or denying the findings, Rose consented to the described sanctions and to the entry of findings that in an attempt to keep customers from filing a complaint against him with his member firm, he made a \$500 payment to the customers without his firm's authorization or permission. The findings stated that Rose serviced the joint account of these customers who invested in private placements, and when the investments did not perform to their expectations, they sought reimbursement from Rose.

The suspension was in effect from March 7, 2011, through March 18, 2011. (FINRA Case #2010022089101)

**Evan Seth Rosenfeld (CRD #2788398, Registered Representative, Jericho, New York)** submitted an Offer of Settlement 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 Rosenfeld'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 allegations, Rosenfeld consented to the described sanctions and to the entry of findings that he failed to timely appear and testify at a FINRA on-the-record interview.

The suspension is in effect from February 22, 2011, through February 21, 2013. (FINRA Case #2008015395601)

**Sanjeev Jayant Shah (CRD #4009454, Registered Representative, New York, New York)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Shah made unauthorized foreign currency trades in a customer bank account, resulting in margin calls being generated for the account and consequently the customer's other bank accounts were frozen, preventing the customer from transferring funds from those accounts. The findings stated that Shah made unauthorized money transfers from another customer's bank account to satisfy, in part, the margin calls for the first client and to be able to transfer funds at its request. The findings also stated that in order to effect the unauthorized fund transfers, Shah forged a signature and created falsified Letters of Authorization (LOAs) by cutting a bank director's signature from an account opening document and pasting it on a fabricated LOA. The findings also included that Shah fabricated documents regarding another client's obligation to meet capital calls and falsely created a memorandum representing that the capital calls had been met.

FINRA found that Shah falsely told the customer's beneficial owner that all outstanding calls had been met and to ignore notices he too was receiving. FINRA also found that to make the memorandum appear authentic, Shah fabricated an internal email address for a fictitious employee and sent the memorandum to the beneficial owner to make him believe that the calls had been met. FINRA also found that Shah failed to respond to FINRA requests to provide on-the-record testimony and to provide a signed statement. **(FINRA Case #2009017788201)**

**Ray Joseph Starner (CRD #433956, Registered Representative, Stroudsburg, Pennsylvania)** 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 months. The fine must be paid either immediately upon Starner'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, Starner consented to the described sanctions and to the entry of findings that he borrowed \$50,000 from a customer at his member firm without informing his firm or otherwise having the loan approved. The findings stated that Starner's firm had procedures which prohibited borrowing money from customers except under certain limited circumstances, which were not applicable in this case, and it did not know of or approve the loan. The findings also stated that the loan had been repaid.

The suspension was in effect from February 7, 2011, through April 6, 2011. **(FINRA Case #2010022383001)**

**Ali Abbas Hassan Taj (CRD #3146053, Registered Principal, Cerritos, 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, Taj consented to the described sanction and to the entry of findings that he failed to respond to a FINRA request for information and documents. **(FINRA Case #2010025512402)**

**Richard William Talley (CRD #442208, Registered Principal, Las Vegas, Nevada)** 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, Talley consented to the described sanction and to the entry of findings that he failed to respond to a FINRA request for information and documents. **(FINRA Case #2010025512401)**

**David Earl Tillson (CRD #1855094, Registered Principal, Carencro, 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 one year. The fine must be paid either immediately upon Tillson'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, Tillson consented to the described sanctions and to the entry of findings that he failed to timely respond to FINRA requests for documents and information. The findings stated that Tillson recommended that an unemployed customer invest 91 percent of her liquid net worth in a highly speculative technology stock, which was inconsistent with her financial situation and with her investment objective of income.

The suspension is in effect from February 22, 2011, through February 21, 2012. **(FINRA Case #2009020801801)**

**Robert Alan Vollbrecht (CRD #2316065, Registered Principal, Jordan, Minnesota)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and barred from association with any FINRA member in any principal capacity. Without admitting or denying the findings, Vollbrecht consented to the described sanctions and to the entry of findings that, acting in his capacity as his member firm's president and as the firm's principal responsible for approving private offerings, he failed to adequately implement a reasonable supervisory system at the firm relating to the sale of private placement offerings. The findings stated that Vollbrecht was required to take affirmative steps to ensure that information in offering documents sold through his firm was accurate and to assign qualified personnel to conduct due diligence of a particular offering, and supervise that due diligence process. The findings also stated that Vollbrecht was further required by the supervisory procedures manual to perform all necessary and appropriate due diligence to ensure that his firm and its field sales force understood any product sold through a private offering through the firm, and any associated risks. The findings also included that Vollbrecht, did not conduct meaningful due diligence for these offerings prior to approving them for sale to his firm's customers, and he allowed the firm's representatives to continue selling these offerings after various red flags were identified.

FINRA found that Vollbrecht, acting on his firm's behalf, failed to maintain a supervisory system reasonably designed to achieve compliance with applicable securities laws and regulations with respect to the offerings. FINRA also found that Vollbrecht failed to reasonably supervise a registered representative who was the subject of a pending FINRA

investigation and was the subject of numerous customer complaints; while the firm nominally had the representative on a written heightened supervision program, pursuant to which Vollbrecht was the representative's supervisor, in practice the representative was not subjected to any degree of heightened supervision and Vollbrecht did not scrutinize the representative's transactions in any different substantive fashion than he did the transactions of other representatives he supervised. In addition, FINRA determined that this failure permitted the representative to conduct questionable variable annuity transactions with customers. Moreover, FINRA found that Vollbrecht failed to reasonably supervise another registered representative who was inexperienced in the securities business, and did not scrutinize the variable annuity documents for an unusually large transaction that he was responsible for reviewing, despite irregularities visible on the firm new account and annuity application forms; Vollbrecht ignored these red flags in approving the transaction. Furthermore, FINRA found that Vollbrecht failed to ensure the accuracy of the firm's books and records after learning of a non-registered individual's involvement in the subject account and conducted minimal investigation of these and other transactions. (FINRA Case #2009018818402)

**William Robert Whitehurst (CRD #2032031, Registered Representative, Towson, Maryland)** 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, Whitehurst consented to the described sanction and to the entry of findings that he improperly borrowed funds from customers at his member firm. The findings stated that he borrowed a total of approximately \$15,000 from a customer. The findings stated that the borrowings were unsecured and the loan terms were not memorialized in writing; to date, Whitehurst has only repaid \$10,000 to the customer. The findings also stated that when these borrowings occurred, Whitehurst's firm prohibited its representatives from borrowing from customers. The findings also included that Whitehurst did not obtain the firm's approval to borrow money from the customer and did not disclose to his firm that he had borrowed money from her.

FINRA found that Whitehurst borrowed a total of approximately \$10,000 from another customer and has repaid the loans. FINRA also found that when these borrowings occurred, the firm's written policies prohibited borrowing from customers unless the firm approved an exception, but Whitehurst did not obtain his firm's approval to borrow money from the customer, and did not disclose to it that he had borrowed money from her. In addition, FINRA determined that with both customers, the borrowing arrangements did not otherwise meet the conditions set forth in NASD Rule 2370(a)(2). Moreover, FINRA found that Whitehurst provided FINRA with a false written response in regard to an investigation. (FINRA Case #2010021401001)

**Steven Michael Williams (CRD #3185644, Registered Representative, Clarksburg, West Virginia)** 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, Williams consented to the described sanction and to the entry of findings that he failed to appear and testify at FINRA on-the-record interviews. (FINRA Case #2010023212301)

## Decisions Issued

The Office of Hearing Officers (OHO) issued the following decisions, which have been appealed to or called for review by the NAC as of February 28, 2011. The NAC may increase, decrease, modify or reverse the findings and sanctions imposed in the decision. Initial decisions where the time for appeal has not yet expired will be reported in future issues of FINRA Disciplinary and Other Actions.

**Gregory Richard Imbruce (CRD #4392235, Registered Representative, New Canaan, Connecticut)** was censured, fined \$50,000 and suspended from association with any FINRA member in any capacity for 30 business days. The sanctions were based on findings that Imbruce willfully violated Rule 105 of Regulation M under the Securities Exchange Act of 1934 and NASD Rule 2110 by purchasing equity securities in a secondary offering from a participating underwriter after having sold short the same equity securities during the restricted period. The findings stated that the transactions occurred in a firm proprietary trading account. The findings also stated that although Imbruce did not personally profit from the violative transactions, his member firm received \$58,721.26 in profits.

This decision has been appealed to the NAC and the sanctions are not in effect pending consideration of the appeal. (FINRA Case #2008012137601)

**John Joseph Plunkett (CRD #2321368, Registered Principal, Brooklyn, New York)** was fined a total of \$25,000 and suspended from association with any FINRA member in any capacity for two years and six months. The fines shall be due and payable when Plunkett returns to the securities industry. The sanctions were based on findings that Plunkett, without authorization from his former member firm's owners, removed and directed others to remove almost all of the firm's documents and supplies, including books and records, from the firm's office to further his own interests and interests of those whom he led in leaving the firm to establish a new business, although he claimed he took the books and records to protect firm customers, the Securities Investor Protection Corporation (SIPC) and departing representatives from fraud. The findings stated that Plunkett copied the firm's computer files, erased and/or directed others to erase almost everything from the files and removed the backup computer tapes, rendering the firm unable to operate. The findings also stated that Plunkett returned documents to the firm only in response to discovery in arbitration. The findings also included that Plunkett failed to timely respond to FINRA requests for information and documents.

This decision has been called for review by the NAC and the sanctions are not in effect pending the review. (FINRA Case #2006005259801)

## 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 the allegations in the complaint.

**Devin Ray Anand aka Devin Raj Anand (CRD #5160369, Registered Representative, Calabasas, California)** was named as a respondent in a FINRA complaint alleging that he became the registered representative assigned to the firm's account belonging to a customer and misappropriated \$51,289 by wiring \$10,000 from the customer's account to an outside bank account belonging to a company in which Anand had a business interest, wiring \$24,000 from the customer's account to an outside bank account belonging to an employee of a business Anand's relatives owned, and wiring \$17,289 from the customer's account to an outside bank account belonging to a company that leased property to his relatives' business. The complaint alleges that Anand attempted to wire \$19,000 from the customer's account to the employee of his relatives' business and \$5,000 from the customer's account to Anand's company, but the firm completed neither of those wires. The complaint also alleges that the customer did not authorize and had no knowledge of any of the wires. The complaint further alleges that Anand also opened an account at the firm in the name of an employee of his relatives' company; the individual did not authorize Anand to open an account at the firm and did not complete or sign any new account opening documents, which the complaint alleges caused his firm to create and maintain inaccurate books and records. In addition, the complaint alleges that the individual's account was funded by a loan in the amount of \$49,500 that was made against the individual's 401(k) account, which the individual had as an employee of the relatives' business. Moreover, the complaint alleges that Anand misappropriated \$35,683 from the individual by wiring \$21,000 from the account to an outside bank account belonging to his relatives' business and wiring \$14,683 from the account to an outside bank account belonging to a company that leased property to his relatives' business. Furthermore, the complaint alleges that the individual did not authorize anyone to take a loan against her 401(k) account and did not authorize any of the wires. The complaint further alleges that Anand failed to respond to FINRA requests for information and failed to appear and testify as FINRA requested. (FINRA Case #2009017302001)

**Alan Jay Davidofsky (CRD #1389312, Registered Representative, Delray Beach, Florida)** was named as a respondent in a FINRA complaint alleging that he executed transactions in a firm customer's IRA without the customer's prior knowledge, authorization or consent, and the account incurred losses of \$108,206 during the unauthorized trading. The complaint alleges that Davidofsky's trading was unsuitable and excessive in size and frequency in view of the customer's financial situation and needs. The complaint also alleges that



Davidofsky executed, or caused the execution of the transactions with the intent to defraud, in that he knew, or was reckless in failing to recognize, that the trading in the customer's IRA account resulted in substantial commission income for him, but could not reasonably be expected to benefit the customer. (FINRA Case #2008015934801)

**Bradford Keith Dent (CRD #1588966, Registered Principal, Cordova, Tennessee)** was named as a respondent in a FINRA complaint alleging that he sought to camouflage losses he suffered while day trading in his member firm's error account by entering trades in customer accounts with offsetting trades in the error account. The complaint alleges that Dent placed unauthorized transactions in firm customer accounts and the accounts were not discretionary accounts. The complaint also alleges that Dent created a loss of \$126,513.65 in one account and entered offsetting trades in the firm's error account, creating a profit in the account equal to the loss in the customer's account. The complaint further alleges that Dent placed unauthorized transactions in another customer's account that was not a discretionary account, and cancelled the trades after the customer complained; the customer suffered no losses due to the cancellation of the trades. In addition, the complaint alleges that Dent failed to respond to FINRA requests to provide documents and information, and to appear to provide on-the-record testimony. (FINRA Case #2009016893101)

**Thomas Thanh Doan (CRD #4511950, Registered Representative, Honolulu, Hawaii)** was named as a respondent in a FINRA complaint alleging that he submitted fraudulent invoices, and wrongfully converted and misappropriated funds from his member firm's affiliate. The complaint alleges that Doan made separate fraudulent claims to his firm's affiliate seeking total reimbursement of \$2,700 in expenses he did not actually incur. The complaint also alleges that Doan sought reimbursement based on false claims that he paid \$450 on separate occasions in furtherance of his business to rent conference room space at a condominium complex. The complaint further alleges that in support of his fraudulent reimbursement claims, Doan submitted some of the invoices he fabricated to appear as if the condominium complex had issued them for the cost of renting. In addition, the complaint alleges that as a result of Doan's submissions of the fraudulent invoices and his requests for reimbursement, he received and accepted \$2,250 from the firm's affiliate, to which he was not entitled. Moreover, the complaint alleges that the firm's affiliate personnel discovered Doan's fraud after the submission of the final invoice and did not pay his claim for that reimbursement. (FINRA Case #2009019637001)

**Joshua Albert Galiani (CRD #2864225, Registered Representative, Pelham Manor, New York)** was named as a respondent in a FINRA complaint alleging that he prepared fictitious account documents and provided them to an elderly customer to hide the substantial losses in that customer's account. The complaint alleges that Galiani engaged in an investment strategy that resulted in a principal loss of \$662,108 in the customer's account. The complaint also alleges that the customer relied primarily on Galiani's verbal representations regarding the performance of his accounts and was unaware of the

decline in his account balances, and Galiani repeatedly told the customer to disregard the confirmations and statements Galiani's member firm sent to him because the majority of the customer's money was purportedly held in a third account, which he described to the customer as an "institutional account" that was not reflected on such documents. The complaint further alleges that the customer subsequently demanded that Galiani provide him with statements for the institutional account, and Galiani created and provided the customer with fictitious firm account summaries that overstated the customer's actual holdings at the firm by approximately \$600,000. In addition, the complaint alleges that on the same date, Galiani also created and provided the customer with a fictitious account statement for the institutional account reflecting a purported value of \$682,861.55. Moreover, the complaint alleges that Galiani completely fabricated the institutional account and the account number listed on the institutional account statement related to a closed account a relative of Galiani previously held. **(FINRA Case #2009017619001)**

**Jo Ann Marie Head (CRD #3009195, Registered Representative, Whittier, California)** was named as a respondent in a FINRA complaint alleging that she orally told customers that the total asset value of their accounts was worth more than their true values, and provided them with documents which falsified and overstated the true values of their accounts. The complaint alleges that Head borrowed \$20,000 from a customer in violation of her firm's policies and only repaid the customer \$1,000. In addition, the complaint alleges that Head settled, and/or attempted to settle, a customer's complaint without her firm's knowledge or authorization. Moreover, the complaint alleges that Head prepared, signed and mailed a letter to a financial institution stating that a customer's assets totaled over \$4 million to assist the customer in obtaining a mortgage loan; the letter was materially false because the customer had assets worth only about \$1.6 million, and, although the firm's procedures required that outgoing correspondence be reviewed and approved before mailing, Head neither sought nor obtained approval for the letter. Furthermore, the complaint alleges that Head neither sought nor obtained authorization from customers or the firm to exercise discretion in their accounts; nonetheless, she executed trades in the customers' accounts. The complaint also alleges that on occasion, Head mischaracterized solicited trades in customers' accounts as "unsolicited," thereby causing the firm's books and records to be inaccurate. The complaint further alleges that Head submitted false and evasive information to FINRA in response to a written request for information. In addition, the complaint alleges that while Head was registered with the firm, the firm had written supervisory procedures forbidding the use of personal email accounts and mandating that business-related electronic communications with customers go through the firm's network; but Head repeatedly emailed customers from her personal email account and repeatedly used her personal hand-held electronic device to send text messages to a customer, preventing the firm from reviewing her email and text messages, which delayed discovery of the misconduct in customers' accounts. Moreover, the complaint alleges that Head failed to appear for and provide on-the-record testimony as FINRA requested. **(FINRA Case #2009017530101)**

**iTRADEdirect.com Corp. (CRD #18281, Boca Raton, Florida)** was named as a respondent in a FINRA complaint alleging that the firm operated a boiler room out of a branch office, and it and its registered representatives engaged in cold-calling potential customers and creating accounts and buying stock for persons who did not agree to buy stock or open accounts. The complaint alleges that the firm and representatives created new account forms that misstated the customers' net worth, income, investment experience and/or risk tolerance, and the representatives often failed to ascertain this information, making it impossible to fulfill their suitability obligations. The complaint also alleges that the firm, through its registered representatives, created false new account documentation, including falsified New Account Information sheets and New Account applications for customers, that set forth false, inaccurate and/or baseless information regarding the customers' income, net worth, investment experience, risk tolerance and/or social security numbers. The complaint further alleges that the firm, directly, and as control person over its registered representatives, knowingly used margin without its customers' permission, and in direct contravention of the customers' instructions. In addition, the complaint alleges that the firm failed to report customer complaints and entered into settlements with customers without disclosing the underlying complaints; failed to maintain accurate books and records to reflect all of its actual and contingent liabilities; failed to accurately calculate and report its net capital, net capital requirement and excess net capital; operated while in net capital deficiency at various times; and failed to provide notice to the SEC and FINRA of its net capital deficiencies. Moreover, the complaint alleges that the firm refused to allow FINRA staff prompt access to its computers to inspect and copy its books and records as part of an on-site examination. **(FINRA Case #2009016159101)**

**Felipe J. Lorie (CRD #1861011, Registered Representative, Coral Gables, Florida)** was named as a respondent in a FINRA complaint alleging that he falsified LOAs regarding a customer's account with his member firm, submitted the falsified LOAs to the firm, and obtained and exercised control over \$21,290.60 in funds from the customer's account without the customer's knowledge or authorization. The complaint alleges that Lorie falsified LOAs for the customer's brokerage account, with the LOAs requesting that checks be issued from the customer's account to a mortgage company and contained the purported signature of the customer and the customer's family members. The complaint also alleges that Lorie submitted the LOAs as authentic to his firm, and checks were issued to the mortgage company, when neither the customer nor any of his family members authorized or signed the LOAs, had any knowledge of the LOAs or had authorized the submission of the LOAs, or had any knowledge of the mortgage company to which the payment was made. The complaint further alleges that Lorie falsified another LOA for the customer's brokerage account that contained the customer's and the customer's family members' purported signatures, requesting that funds be transferred to a bank, and credited to a third party account. In addition, the complaint alleges that Lorie submitted the LOA as authentic to his firm, and the firm did not process this LOA request; however, neither the customer nor

any of his family members authorized or signed the LOA, had any knowledge of the LOA or had authorized its submission. Moreover, the complaint alleges that Lorie's submission of the falsified LOA requests to his firm for the customer's account caused the firm's books and records to be inaccurate. Furthermore, the complaint alleges that the checks drawn on the customer's account and directed to the mortgage company were used as mortgage payment for Lorie's personal mortgage. The complaint also alleges that Lorie failed to respond to FINRA requests for information. **(FINRA Case #2009019867201)**

**Firm Expelled for Failure to Pay Fines and/  
or Costs Pursuant to FINRA Rule 8320**

**Seaboard Securities, Inc. (CRD #755)**  
Florham Park, New Jersey  
(February 11, 2011)  
FINRA Case #2007008724801

**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.)

**Cutler Securities, Inc. (CRD #41230)**  
Delray Beach, Florida  
(February 1, 2011)

**Prestige Financial Center, Inc. (CRD #30407)**  
New York, New York  
(February 1, 2011)

**Seaboard Securities, Inc. (CRD #755)**  
Florham Park, New Jersey  
(February 1, 2011)

**Sierra Equity Group LLC (CRD #36518)**  
Boca Raton, Florida  
(February 1, 2011)

**Firm 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.)

**Nile Capital, LLC (CRD #122994)**  
Waban, Massachusetts  
(February 4, 2011 – February 17, 2011)  
Arbitration Case #10-01718

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

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

**Joseph C. Bergeron (CRD #5535698)**  
Shreveport, Louisiana  
(February 14, 2011)  
FINRA Case #2010023473001

**Bryan Duane Clark (CRD #5644685)**  
Yakima, Washington  
(February 22, 2011)  
FINRA Case #2009020821001

**Aleksandr Yurievich Denisov  
(CRD #4586928)**  
Marina Del Rey, California  
(February 28, 2011)  
FINRA Case #2010023760401

**Vincent Anthony Fasano (CRD #4999350)**  
Jacksonville, Florida  
(February 14, 2011)  
FINRA Case #2010021533901

**Rosemarie Haag (CRD #5177272)**  
Cape Coral, Florida  
(February 14, 2011)  
FINRA Case #2010022216701

**John Willis Hurst (CRD #1244144)**  
Charlotte, North Carolina  
(February 1, 2011)  
FINRA Case #2009019941401

**Mohamad A. Masri (CRD #5731475)**  
Pembroke Pines, Florida  
(February 18, 2011)  
FINRA Case #2009020835901

**Bobby Jefferson Parks Jr. (CRD #3047923)**  
Blue Ridge, Georgia  
(February 22, 2011)  
FINRA Case #2009019372101

**Michael Patrick Schaeffer (CRD #4559860)**  
Tallahassee, Florida  
(February 22, 2011)  
**FINRA Case #2009020921701**

**Shenna M. Straling (CRD #5657114)**  
Queen Creek, Arizona  
(February 14, 2011)  
**FINRA Case #2010021971901**

**Myra Trypathi (CRD #4734063)**  
San Jose, California  
(February 14, 2011)  
**FINRA Case #2009017382701**

**Michael Albert Vieane (CRD #2715640)**  
Dallas, Texas  
(February 1, 2011)  
**FINRA Case #2009018045801**

**Dennis Dale Young Jr. (CRD #4207074)**  
Sacramento, California  
(February 14, 2011)  
**FINRA Case #2010022984601**

**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.)

**Anthony Joseph DiGiovanni Sr.  
(CRD #601698)**  
Florham Park, New Jersey  
(February 11, 2011)  
**FINRA Case #2007008724801**

**John Patrick Donovan (CRD #3184971)**  
Lebanon, New Jersey  
(February 8, 2011 – March 14, 2011)  
**FINRA Case #2008016223101**

**Hugo Alexander Gomez (CRD #2891235)**  
Bronx, New York  
(February 8, 2011 – March 16, 2011)  
**FINRA Case #2008015158701**

**David Scott Isolano (CRD #2504880)**  
Lackawaxen, Pennsylvania  
(February 8, 2011)  
**FINRA Case #2007007253803**

**Robert Wesley Stout (CRD #1356443)**  
Arlington, Texas  
(February 18, 2011)  
**FINRA Case #E062005003202**

**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.)

**Tammy Lyn Bohnert (CRD #2671147)**  
Frohna, Missouri  
(February 18, 2011 – March 28, 2011)  
**FINRA Case #2010022579801**

**Louis John D'Arpa (CRD #5639756)**  
Staten Island, New York  
(February 18, 2011)  
**FINRA Case #2010024421801**

**Sherri Lynn Dodge (CRD #5263859)**  
Scranton, Pennsylvania  
(February 18, 2011)  
**FINRA Case #2010024697301**

**Daniel Todd Engel (CRD #2145822)**  
Dana Point, California  
(February 28, 2011)  
**FINRA Case #2009020117601**

**Michael Shibley Horaney (CRD #1988929)**  
Henderson, Nevada  
(February 22, 2011)  
**FINRA Case #2010021343001**

**Darren Raymar Johnson (CRD #5691261)**  
New York, New York  
(February 14, 2011)  
FINRA Case #2009018846501

**Robert Allen Lechman (CRD #1045237)**  
Oceanside, California  
(February 14, 2011)  
FINRA Case #2009017670501

**Jo-Anne Marie Lombardo (CRD #4743113)**  
East Taunton, Massachusetts  
(February 22, 2011)  
FINRA Case #2009019693201

**Miriam L. Lopez (CRD #4560263)**  
Rio Rico, Arizona  
(February 22, 2011)  
FINRA Case #2010024009101

**William E. Olivares (CRD #5052733)**  
Brooklyn, New York  
(February 25, 2011)  
FINRA Case #2009020698401

**William Brown Park (CRD #2073037)**  
Houston, Texas  
(February 14, 2011)  
FINRA Case #2010020851101

**Corey Peterson (CRD #5289024)**  
Gilbert, Arizona  
(February 25, 2011)  
FINRA Case #2009018805301

**Justin David Silberman (CRD #4244487)**  
Fairfax, Virginia  
(January 3, 2011 – February 14, 2011)  
FINRA Case #2010022118101

**Edward Allen Watson (CRD #2700411)**  
Garland, Texas  
(February 25, 2011)  
FINRA Case #2010022906601

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

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

**Brian Matthew Bittner (CRD #2359265)**  
New York, New York  
(January 14, 2010 – February 10, 2011)  
FINRA Arbitration Case #05-05482

**Harrison Lee Blackwell (CRD #704458)**  
Mount Pleasant, South Carolina  
(February 3, 2011)  
FINRA Arbitration Case #10-00553

**Tod Bretton (CRD #2258323)**  
Hazlet, New Jersey  
(January 6, 2011 – February 7, 2011)  
FINRA Arbitration Case #08-04753

**Dennis Richard Creasbaum (CRD #2827663)**  
Bristol, Indiana  
(February 3, 2011)  
FINRA Arbitration Case #09-04482

**Paul Andrew Fischetti (CRD #2300161)**  
Palm Harbor, Florida  
(February 11, 2011)  
FINRA Arbitration Case #09-04380

**Michael Francis Gavin (CRD #1306802)**  
Langhorne, Pennsylvania  
(February 11, 2011)  
FINRA Arbitration Case #10-00741

**Roland Hansalik (CRD #4317662)**  
Rancho Palos Verde, California  
(July 15, 2010-February 23, 2011)  
FINRA Arbitration Case #09-04680



**Jung Han Kim aka Jay Kim (CRD #2972169)**  
 Vancouver, Washington  
 (February 11, 2011)  
**FINRA Arbitration Case #08-02047**

**Alice Jean Solomon (CRD #1789872)**  
 Highlands, New Jersey  
 (January 7, 2010 – February 9, 2011)  
**FINRA Arbitration Case #08-03717**

**Matthew Noel Murray (CRD #2429593)**  
 New York, New York  
 (November 11, 2010 – February 11, 2011)  
**FINRA Arbitration Case #06-04643**

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## **FINRA Imposes Fines Totaling \$600,000 Against Lincoln Financial Securities and Lincoln Financial Advisors for Failure to Protect Confidential Customer Information**

### **Personal Records of Over One Million Customers Not Properly Safeguarded; Firm Credited for Response to Customers and Corrective Actions Taken**

The Financial Industry Regulatory Authority (FINRA) announced that it has imposed fines of \$450,000 against Lincoln Financial Securities, Inc. (LFS) and \$150,000 against an affiliated firm, Lincoln Financial Advisors Corporation (LFA), for failure to adequately protect non-public customer information. In addition, LFS failed to require brokers working remotely to install security application software on their own personal computers used to conduct the firm's securities business.

Securities and Exchange Commission (SEC) and FINRA rules require every broker-dealer to adopt written policies and procedures that address safeguards for the protection of customer records and information. FINRA found that for extended periods of time—seven years for LFS and approximately two years for LFA—certain current and former employees were able to access customer account records through any Internet browser by using shared login credentials. From 2002 through 2009, between the two firms, more than 1 million customer account records were accessed through the use of shared user names and passwords. Since neither firm had policies or procedures to monitor the distribution of the shared user names and passwords, they were not able to track how many or which employees gained access to the site during this period of time. As a result of the weaknesses in access controls to the firms' system, confidential customer records including names, addresses, social security numbers, account numbers, account balances, birth dates, email addresses and transaction details were at risk.

The Web-based system both firms used combined non-public customer account information from various sources and allowed employees to view the customer account information within a single site. Home office personnel from both firms could access the system either by clicking on a link on the firm's website or could gain access through any Internet browser by going directly to the system's website and logging in with one of the shared user names and passwords.

FINRA also found that LFS and LFA did not have procedures to disable or change the shared user names and passwords on a recurring basis even after a home office employee had been terminated. Many individuals left the two firms during the relevant time period, yet the shared user names and passwords were never changed, and the firms had no way of determining whether former employees continued to access confidential customer information using those same user names and passwords.

In assessing sanctions, FINRA took into consideration the firms' efforts to notify all customers whose account information was or had been potentially exposed on the firms' Web-based system, and offered those customers credit monitoring and restoration services for a period of one year.

In settling these matters, LFS, based in Concord, New Hampshire, and LFA, based in Fort Wayne, Indiana, neither admitted nor denied the charges, but consented to the entry of FINRA's findings

### **FINRA Expels MICG Investment Management and Bars MICG's CEO for Fraud In Connection With MICG's Venture Strategies Hedge Fund**

The Financial Industry Regulatory Authority (FINRA) announced that it has expelled MICG Investment Management, LLC (MICG) of Newport News, VA, and barred Jeffrey A. Martinovich, the firm's CEO and majority owner, for securities fraud, misusing investors' funds and causing false account statements to be issued to investors in connection with their management of a proprietary hedge fund named MICG Venture Strategies, LLC (Venture Strategies). MICG and Martinovich organized, controlled and managed the hedge fund.

FINRA found that MICG and Martinovich improperly assigned excessive asset values to two non-public securities owned by Venture Strategies, and used the excessive asset values as the basis for paying unjustified management and incentive performance fees. Martinovich also fraudulently induced an elderly, non-accredited MICG customer to invest \$75,000 in Venture Strategies.

Brad Bennett, FINRA Executive Vice President and Chief of Enforcement, said, “MICG and Martinovich used the proprietary hedge fund to unjustly enrich themselves. This extreme abuse of trust, and their disregard for the interests of public investors, demonstrated their unfitness for participation in the industry.”

FINRA found the following:

In order to inflate their management and incentive fees in 2007 and 2008, which were dependent on the value of the hedge fund’s assets, MICG and Martinovich assigned unjustifiably high values to the assets, rather than relying on independent or legitimate valuations or valuation methods. For example, at various times, MICG and Martinovich valued an equity interest at more than triple the price at which it was contemporaneously being offered to them for sale.

In mid-2007, MICG and Martinovich caused Venture Strategies to purchase about 1.8 million shares of EPV Solar Inc. (EPV) common stock for about \$1.15 per share. At all relevant times, EPV was a private company and there was no public trading in its stock. Nevertheless, without a reasonable basis for doing so, MICG and Martinovich raised the value of the shares as recorded on MICG’s books to \$2.13 per share as of Dec. 12, 2007—improperly causing Venture Strategies to pay MICG an incentive management fee of about \$337,000 for 2007.

MICG and Martinovich distributed false and misleading account statements to Venture Strategies investors, and made material misrepresentations and omissions in the private placement memoranda through which they sold the Venture Strategies units.

In December 2008, Martinovich recommended and sold to an elderly, non-accredited investor a \$75,000 purchase of Venture Strategies units without having reasonable grounds for believing the investment was suitable for him. Martinovich also failed to disclose to the customer that Venture Strategies needed the funds to pay incentive and/or management fees from which MICG and Martinovich would derive financial benefit.

In concluding this settlement, MICG and Martinovich neither admitted nor denied the charges, but consented to the entry of FINRA’s findings.