

Disciplinary and Other FINRA Actions

Firms Fined, Individuals Sanctioned

Ace Diversified Capital, Inc. (CRD® #41768, San Gabriel, California) and Lynnwood Jen (CRD #2198343, Registered Principal, Anaheim, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm and Jen were fined \$25,000, jointly and severally, and Jen was suspended from association with any FINRA member in any principal capacity for 15 business days. Without admitting or denying the findings, the firm and Jen consented to the described sanctions and to the entry of findings that they failed to establish, maintain, and enforce a supervisory system and written supervisory procedures (WSPs) reasonably designed to achieve compliance with applicable laws, rules and regulations concerning the sale of interests in private placements. The findings stated that the firm, acting through Jen as its chief compliance officer and president, executed an agreement for marketing and selling interests in Medical Capital Holdings, Inc., a Regulation D offering of promissory notes, and sold to customers \$677,262 of the notes MedCap issued; these sales generated approximately \$30,476 in commissions, of which \$21,727 were received by the registered representatives who sold the MedCap notes. The findings also stated that at the time of the MedCap sales, the firm's membership agreement did not permit it to engage in the sale of any private placements, and by selling the notes, the firm effected a material change in its business operations without applying for FINRA's approval to do so. The findings also included that Jen was responsible for ensuring that the firm established, maintained and enforced a supervisory system and/or WSPs reasonably designed to achieve compliance with applicable laws, rules and regulations; and although the firm was not approved to sell interests in private placements, it maintained WSPs pertaining to the sales of private placements.

FINRA found that these WSPs were inadequate, and in addition to the firm's deficient WSPs, the firm, acting through Jen, failed to conduct adequate due diligence on the issuer's offering; for instance, Jen did not research the issuer's past performance. FINRA also found that Jen reasonably should have known that the issuer had defaulted on its earlier notes offerings and that the private placement memorandum (PPM) misrepresented the issuer's past performance; consequently, Jen failed to take reasonable steps to ensure that the firm's registered representatives disclosed those missed payments to investors and prospective investors in the offering notes.

The suspension was in effect from May 2, 2011, through May 20, 2011. ([FINRA Case #2009020356901](#))

Reported for June 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).

Portfolio Advisors Alliance, Inc. (CRD #101680, New York, New York) and Marcelle Long (CRD #2679335, Registered Principal, Atlanta, Georgia) submitted an Offer of Settlement in which the firm was censured and fined \$35,000. Long was fined \$7,500 and suspended from association with any FINRA member in any principal or supervisory capacity for 30 days. Without admitting or denying the allegations, the firm and Long consented to the described sanctions and to the entry of findings that they failed to put any heightened supervisory measures in place for a branch manager or to follow up on “red flags.” The findings stated that notwithstanding the branch manager’s remote location, prior disciplinary history, outside business disclosures or his disclosure that he was potentially under financial stress and unable to meet financial obligations, the firm and Long failed to put any heightened supervisory measures in place or to follow up on the red flags after he disclosed information on a compliance questionnaire, for which the affirmative answer required that he attach a separate sheet providing complete details about the disclosed activities, which Long did not complete or enforce. The findings also stated that the firm’s and Long’s heightened supervision of the branch manager was inadequate in that it consisted only of inspecting his office annually and speaking on the phone on a fairly regular basis. The findings also included that Long inspected the branch manager’s branch office, and although she was aware that the manager was involved in certain outside business activities, based on the disclosures that he made on his Uniform Application for Securities Industry Registration or Transfer (Form U4), she admitted that she did not inspect any files or financial records associated with his disclosed outside business activities and did not detect any undisclosed outside business activities or private securities transactions.

FINRA found that during a subsequent inspection, Long again did not review documentation regarding the branch manager’s disclosed outside business activities and did not detect any undisclosed outside business activities or private securities transactions. FINRA also found that the branch manager had participated in private securities transactions wherein he had raised more than \$1.5 million from investors, many of whom were firm customers. In addition, FINRA determined that the firm and Long failed to review or retain email communications on the branch manager’s outside email account, and Long did not review his outside email account during her inspections of his branch office. Moreover, FINRA found that the firm did not have any supervisory procedures regarding the review and retention of email communications on outside email accounts.

The suspension was in effect from May 16, 2011, through June 14, 2011. ([FINRA Case #2008011640602](#))

Firms Fined

Ameriprise Financial Services, Inc. (CRD #6363, Minneapolis, Minnesota) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$50,000. 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 enforce a supervisory system reasonably designed to detect and prevent one of its broker's misconduct. The findings stated that a broker who was registered with the firm forged customers' signatures on various financial documents that he submitted to the firm for processing. The findings also stated that the broker agreed to pay certain fees for customers without alerting the firm in order to avoid complaints from these customers. The findings also included that the broker agreed to be barred from associating with any FINRA firms for this misconduct.

FINRA found that a firm surveillance analyst became aware of potential forgeries by the broker and failed to follow up with a timely investigation, and the firm's supervisory system did not ensure that a timely investigation was conducted. FINRA also found that the firm had implemented a new set of procedures for its surveillance department through which the firm discovered that the investigation of the broker had not been completed, and the firm promptly reassigned the matter to other surveillance personnel. In addition, FINRA determined that the firm completed its investigation of the broker nearly two and a half years after it first opened the investigation and found ample evidence of repeated forgeries by the broker, whose employment was then terminated. ([FINRA Case #2008013648002](#))

Beta Capital Management, L.P. (CRD #38964, Miami, Florida) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it issued inaccurate and incomplete confirmations for equity transactions. The findings stated that the firm failed on numerous occasions to provide written notification disclosing to its customers its correct capacity in the transaction. The findings also stated that the firm erroneously represented that it had acted in an agency capacity in each transaction, when, in fact, it had acted in a principal capacity in each transaction. The findings also included that the firm failed on numerous occasions to disclose the difference between the price to the customer and the firm's contemporaneous purchase or sale price, or the reported trade price, the price to the customer and the difference, if any, between the two prices. ([FINRA Case #2008014401501](#))

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 \$40,000 and required to review its supervisory system and procedures concerning compliance with applicable laws, regulations and rules regarding principal registration, and to determine whether individuals previously identified as requiring principal registration have become so registered. No later than 60 days after issuance of the AWC, the firm shall prepare a written

report detailing its review, findings and recommendations, and submit a copy of that report to FINRA. A firm officer must certify to FINRA in writing that it has completed its review and has established systems and procedures regarding principal registration.

Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it permitted individuals who were registered as general securities representatives (GSRs), and another individual who was registered as a GSR and a research analyst, to function as principals without being registered as general securities principals (GSPs). The findings stated that each of the individuals was actively engaged in the management of the firm's investment banking and/or securities business by, among other things, supervising persons associated with the firm. The findings also stated that the firm did not establish and maintain a supervisory system reasonably designed to achieve compliance with the rules and regulations applicable to the registration of principals. The findings also included that the firm failed to adequately ensure that individuals had the requisite registrations to supervise employees and business areas to which they were assigned. FINRA found that, specifically, the firm failed to promptly identify all persons who needed principal registrations, and after identifying individuals who should become registered as principals, the firm permitted them to delay taking the required examinations, which, in turn, contributed to the registration violations. ([FINRA Case #2009016262303](#))

Canaccord Genuity, Inc. fka Canaccord Adams, Inc. (CRD #1020, Boston, Massachusetts) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$22,500, required to review its supervisory system and procedures concerning research reports and the supervision of research analysts for compliance with FINRA rules and federal securities laws and regulations, and to certify in writing within 90 days that the firm completed its review and that it currently has in place systems and procedures reasonably designed to achieve compliance with those rules, laws and regulations. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to adopt and implement WSPs reasonably designed to supervise its research analysts and ensure that its research reports complied with NASD® Rule 2711. The findings stated that although the firm maintained some relevant WSPs, those procedures did not provide any real guidance to its employees about the specific steps they needed to take to achieve compliance with Rule 2711. The findings also stated that the WSPs required that all public appearances by firm analysts be approved by the research director, that the appropriate disclosures be made to the media outlet, that a record documenting the disclosures provided to the media be maintained, and that the firm's marketing department receive a copy of such disclosure. The findings also included that the WSPs made the research analyst responsible for meeting these obligations but provided little or no guidance on how these tasks could be successfully carried out or supervised.

FINRA found that the WSPs contained provisions broadly describing what portions of draft research reports could and could not be provided to covered companies, but failed to provide specific guidance to firm employees regarding the manner in which these requirements were to be fulfilled. FINRA also found that the firm's WSPs permitted the research department to send sections of a research report to a subject company before publication to verify the accuracy of information in those sections, provided that a complete draft of the research report was first provided to the compliance department. In addition, FINRA determined that the firm sent research report excerpts to a subject company before its compliance department had received a complete draft of the report, and in one of those instances, the complete draft was not sent to the compliance department. Moreover, FINRA found that in connection with public appearances by its research analysts, the firm failed to retain records that were sufficient to demonstrate compliance by those analysts with the disclosure requirements of NASD Rule 2711(h). ([FINRA Case #2009016251601](#))

Domestic Securities, Inc. (CRD #34721, Montvale, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$17,500 and ordered to pay \$390.21, plus interest, in restitution to investors. 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 reports were marked with a limit order display indicator of "Y," indicating that the firm received instructions from the customer that a non-block size limit order should not be displayed or a block size limit order should be displayed, when in fact no such instruction was received. The findings stated that the firm failed to submit a cancel report. The findings also stated that the firm failed to execute orders fully and promptly. The findings also included that in transactions for or with a customer, the firm failed to use reasonable diligence to ascertain the best inter-dealer market, and failed to buy or sell in such market so that the resultant price to its customer was as favorable as possible under prevailing market conditions. ([FINRA Case #2009017006401](#))

FBR Capital Markets & Co. (CRD #25027, Arlington, Virginia) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report transactions in Trade Reporting and Compliance Engine™ (TRACE™)-eligible securities to TRACE within 15 minutes of execution time. The findings stated that the firm failed to report the correct time of trade execution for transactions in TRACE-eligible securities to TRACE, and failed to show the correct execution time on brokerage order memoranda. ([FINRA Case #2010021642901](#))

Geoffrey Richards Securities Corp. (CRD #120007, Hypoluxo, Florida) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$25,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to preserve all of its business-related

electronic communications. The findings stated that the firm attempted to preserve such communications by burning them to a non-rewriteable, non-erasable disc on a monthly basis, but the process was deficient because it did not result in all such communications being saved to the disc. The findings also stated that the firm did not identify this deficiency in its audit of its electronic communications preservation system. The findings also included that the firm, in contravention of its written supervisory procedures, permitted registered representatives to use outside or non-firm-sponsored email accounts to send and receive securities business-related emails. FINRA found that the firm's preservation process did not capture these emails that were sent to or from those accounts; therefore, the firm did not retain and review them. FINRA also found that the firm relied exclusively on electronic storage media to preserve its business-related electronic communications but did not retain a third party who had the access or ability to download information from its electronic storage media. ([FINRA Case #2009015971101](#))

Hudson Securities, Inc. (CRD #10467, Jersey City, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$87,500, ordered to pay \$3,395.05, plus interest, in restitution to investors and to revise its written supervisory procedures regarding order handling, best execution, anti-intimidation and coordination, short sale transactions and OATS reporting. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that in transactions for or with a customer, it failed to use reasonable diligence to ascertain the best inter-dealer market and buy or sell in such market so that the resultant price to its customer was as favorable as possible under prevailing market conditions. The findings stated that the firm failed to execute orders fully and promptly. The findings also stated that the firm made available a report on the covered orders in national market system securities it received for execution from any person which included incorrect information as to the average realized spread, average effective spread and price improved amount for several covered orders. The findings also included that the firm transmitted Reportable Order Events (ROEs) to OATS that OATS rejected for context or syntax errors and were repairable, but the firm failed to repair many of the rejected ROEs and therefore failed to transmit them to OATS.

FINRA found that the firm effected short sale transactions and failed to report them to the FINRA/NASDAQ Trade Reporting Facility® (FNTRF) with a short sale modifier and effected long sale transactions and incorrectly reported each of these transactions to the FNTRF as short. FINRA also found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules addressing minimum requirements for adequate WSPs in order handling, best execution, anti-intimidation and coordination, short sale transactions and OATS reporting. In addition, FINRA determined that the firm, when it acted as a principal for its own account, failed to provide written notification disclosing to its customer that it was a market maker in each such security. Moreover, FINRA found that the firm, when acting in a riskless capacity, inaccurately disclosed to its customer its remuneration as commission,

instead of commission equivalent. Furthermore, FINRA found that the firm made available a report on the covered orders in national market system securities it received for execution from any person, and the report included incorrect information as to the average realized spread, average effective spread, price improved shares, price improved average amount, price improved time, outside-the-quote shares, outside-the-quote average amount and at-the-quote shares. The findings also stated that the firm made publicly available a report on its routing of non-directed orders in covered securities during a calendar quarter that included incomplete information as to its routing venues. ([FINRA Case #2007010451702](#))

Incapital LLC (CRD #101420, Chicago, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$11,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report information regarding transactions effected in municipal securities to the Real-Time Transaction Reporting System (RTRS) within 15 minutes of trade time to an RTRS Portal. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and MSRB rules concerning trade reporting of municipal securities transactions. ([FINRA Case #2010023879001](#))

Instinet, LLC (CRD #7897, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$32,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it executed short sale transactions and failed to report them to the NASDAQ Market Center with a short sale modifier. The findings stated that the firm transmitted ROEs to OATS that OATS rejected for context or syntax errors and were repairable, but the firm failed to repair many of the rejected repairable ROEs, so they were not transmitted to OATS. The findings also stated that the firm failed to repair many of the rejected ROEs within the required five business days, and failed to populate the rejected ROE resubmit flag with a "Y" for several ROEs. The findings also included that the firm transmitted to OATS reports related to orders that either omitted special handling codes or contained inaccurate special handling codes. ([FINRA Case #2006005100801](#))

J.P. Morgan Clearing Corp. (CRD #28432, Brooklyn, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$47,500 and required to revise its written supervisory procedures regarding NASD Rule 3210. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it had a fail-to-deliver position at a registered clearing agency in non-reporting threshold securities for 13 consecutive settlement days, and failed to immediately thereafter close out the fail-to-deliver position by purchasing securities of like kind and quantity. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning NASD Rule 3210. ([FINRA Case #2007009204901](#))

Monex Securities, Inc. (CRD #30362, Houston, Texas) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$25,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to properly supervise and properly register its foreign finders; and it had no written procedures concerning its use of foreign finders. The findings stated that the firm terminated the registrations of all its foreign associates and made them foreign finders; thereafter, the firm employed foreign finders and no foreign associates. The findings also stated that many of the firm's foreign finders were previously registered foreign associates at the firm who worked on the premises of the firm's affiliated broker-dealer. The findings also included that as registered sales representatives and foreign associates for the firm, they acted as general securities representatives engaging in securities activities for non-U.S. residents, citizens or nationals. FINRA found that when the firm's foreign associates' registrations were terminated with FINRA and re-affiliated as foreign finders, their job functions were supposed to be limited to those of a foreign finder; the firm's foreign finders' sole involvement with the firm should have been the initial referral of non-U.S. customers. FINRA also found that all of the firm's foreign finders serviced customer accounts, processed new account documents and letters of authorization (LOAs) for customers containing confidential client information and serviced customer accounts; these activities went well beyond the initial referral of non-U.S. customers to the firm. In addition, FINRA determined that given the expanded roles of the firm's foreign finders, they should have been registered as foreign associates; however, the firm failed to register any of its foreign finders as foreign associates. Moreover, FINRA found that a concerned customer visited the firm's affiliate's branch office and explained that a foreign finder of the firm had provided him with an account statement that differed from the statement he recently received from the firm's clearing firm; the firm immediately instituted an internal investigation into all accounts the foreign finder had introduced to the firm. Furthermore, FINRA found that the firm discovered that unauthorized statements had been provided to customers by its rogue foreign finder; the unauthorized statements inflated market values and net worth; and its rogue foreign finder altered correspondence that he forwarded to customers by making the documents incorrectly appear as if the firm had authorized them. The findings also stated that the firm contacted and interviewed every customer the rogue foreign finder introduced to the firm, which revealed that some of the customers had received false statements; and that the false statements inflated customers' account values by over \$2 million U.S. dollars. The findings also included that the investigation led to the rogue foreign finder's termination, foreign finders being discontinued, written supervisory procedures being added, the firm's supervisory system being enhanced and substantial compensation paid to affected customers. FINRA found that the firm claimed that it inspected the offices of its foreign finders, including the rogue foreign finder, to ensure that they were properly supervised, but failed to document or memorialize the office inspections and other supervisory activities in any way. ([FINRA Case #2008014078801](#))

Morgan Stanley & Co. Incorporated (CRD #8209, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$375,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that a former associated person and employee of the firm in its New York Position Services Group (NYPS) misappropriated approximately \$2.5 million from the firm, institutional firm customers and a firm counterparty by entering, or causing to be entered, numerous false journal entries into the firm's electronic system to transfer and credit money associated with corporate actions. The findings stated that the former employee entered, or caused to be entered, into the firm's electronic system requests for checks to be issued to his shell corporation against the suspense and/or fee accounts that he was using to misappropriate funds. The findings also stated that the firm's former employee entered some check requests himself, which NYPS employees that reported to him later approved. The findings also included that the former employee caused employees who reported to him to enter check requests, and he used the identification number and password of another NYPS employee who reported to him to enter the remaining check requests; he later approved all of the check requests.

FINRA found that the firm failed to establish and implement an adequate system of follow-up and review of journal entries and adequate procedures for reviewing and approving check requests related to corporate actions. FINRA also found that the firm did not have any procedure to review the former associated person's check requests and journal entries. In addition, FINRA determined that the firm failed to properly supervise the former associated person and failed to detect that he entered, or caused to be entered, false check requests and false journal entries related to corporate actions, which allowed him to misappropriate approximately \$2.5 million from the firm, its institutional customers and a firm counterparty. Moreover, FINRA found that the firm introduced a new system, the Summary of Manual Journals (SOMJ), to replace the review of all journal entries and require the review and approval of journal entries that the firm determined to be high priority. Furthermore, the findings stated that these journal entries remained on the SOMJs until a supervisor reviewed and approved them, and the former associated person was assigned to review and approve all high-priority journal entries flagged on the SOMJs, including his own. The findings also stated that the firm assigned some NYPS supervisors, all of whom reported directly to the former associated person, to review and approve journal entries flagged on SOMJs, but nobody was assigned to review high-priority journal entries entered by anyone not on one of those teams, including the former associated person. The findings also included that the firm failed to have a system to inform NYPS management if journal entries flagged on the SOMJs were not approved.

FINRA found that the former associated person made numerous journal entries, some of which were flagged as high-priority; he approved several of them; many were not reviewed and were listed on the SOMJs pending approval at the time of his termination. FINRA also found that check requests NYPS personnel entered were required to be approved by another NYPS employee, but the firm did not require the person approving the check to

be a supervisor or have supervisory responsibility; as a result, NYPS associates approved check requests an NYPS supervisor entered, and entered check requests on a supervisor's behalf, which the supervisor subsequently approved. In addition, FINRA determined that the firm did not require any review to determine if the check request was associated with a corporate action and the approver simply ensured that all the required information was included in the check request. ([FINRA Case #2009017072302](#))

Murphy & Durieu (CRD #6292, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to timely report ROEs to OATS; transmitted Route or Combined Order/Route Reports to OATS that the OATS system was unable to link to the corresponding new order transmitted by the destination member firm due to inaccurate, incomplete or improperly formatted data; and failed to transmit New Order Reports to OATS that the OATS system could link to the related Route Report submitted to OATS where the firm was identified as the "Sent to Firm." The findings stated that the firm transmitted reports to OATS concerning some orders that omitted the special handling code designating the orders as Not Held. ([FINRA Case #2008012769001](#))

NFP Securities, Inc. (CRD #42046, Austin, Texas) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$50,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it approved advertising materials a registered representative used in his retail equity-indexed annuity (EIA) business conducted at workshops for senior citizens that contained false, exaggerated, unwarranted or misleading statements. The findings stated that the firm failed to document, with a principal's signature or initial, its approval of a piece of advertising material the representative used and failed to maintain a record of its approval of a piece of the representative's advertising material. The findings also stated that the firm did not supervise the representative's workshops, in that it did not require him to produce a copy of the script for the workshops and did not attend any of the live workshops to confirm that the contents of the workshops complied with NASD rules and that only firm-approved materials were being used. The findings also included that if the firm had required the representative to submit a script and had attended his workshops, it would have discovered that he made statements, used materials and engaged in conduct that violated NASD Rules 2110 and 2210, and could have prevented further violations of these rules. ([FINRA Case #2007011393902](#))

Pershing LLC (CRD #7560, Jersey City, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it effected, directly or indirectly, transactions in a security while a trading pause was in effect. ([FINRA Case #2010023708701](#))

Southwest Securities, Inc. (CRD #6220, Dallas, Texas) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$50,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it had deficits in NASDAQ- and NYSE-listed securities and failed to issue stock loan recall notices on a timely basis for a sufficient number of shares to cover the size of the deficits, and to make continuing stock borrow attempts during the existence of the deficits. The findings stated that to comply with SEC Rule 15c3-3(d), the firm also needed to keep appropriate records of the actions it took to eliminate securities deficits, whether attempting to borrow securities, recalling loaned securities or making purchases of securities in the market (known as “buy-ins”). The findings also stated that the firm’s documented borrow attempts were inadequate to comply with possession or control requirements. The findings also included that the firm failed to document whether it had attempted to borrow securities or taken other appropriate action to obtain possession or control of security shares when there was an existing deficit in that security. ([FINRA Case #2007009508501](#))

State Street Global Markets, LLC (CRD #30107, Boston, Massachusetts) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$47,250 and required to revise its written supervisory procedures with respect to applicable securities laws, regulations and FINRA rules regarding NASD Rule 6130(d)(6), and SEC Rules 203(a), 203(b)(3) and 204T. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it had fail-to-deliver positions at a registered clearing agency in equity securities that resulted from long sales, and failed to immediately thereafter close out the fail-to-deliver positions by purchasing securities of like kind and quantity no later than the beginning of regular trading hours on the third consecutive settlement day following the settlement date for the transaction (i.e., T+6). The findings stated that the firm continued to have fail-to-deliver positions in the equity securities at the registered clearing agency for additional settlement days from T+6 through later dates. The findings also stated that the firm’s supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning NASD Rule 6130(d)(6), and SEC Rules 203(a), 203(b)(3) and 204T. ([FINRA Case #2008015159801](#))

Susquehanna Financial Group, LLLP (CRD #35865, Bala Cynwyd, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it designated an individual as the manager of a branch office and permitted him to supervise options transactions effected in the branch office and otherwise engage in activities requiring registration as a Registered Options and Security Futures principal even though he was not registered with FINRA in that capacity. ([FINRA Case #2010021239801](#))

Wells Fargo Advisors, LLC (CRD #19616, St. Louis, Missouri) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$58,000 and ordered to pay \$38,462.01, plus interest, in restitution to customers. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it sold (or bought) corporate bonds to (or from) customers and failed to sell (or buy) such bonds at a price that was fair, taking into consideration all relevant circumstances, including market conditions with respect to each bond at the time of the transaction, the expense involved and that the firm was entitled to a profit. The findings stated that the firm sold municipal securities for its own account to a customer at an aggregate price (including any mark-up) that was not fair and reasonable, taking into consideration all relevant factors, including the best judgment of the broker, dealer or municipal securities dealer as to the fair market value of the securities at the time of the transactions and of any securities exchanged or traded in connection with the transaction, the expense involved in effecting the transaction, the fact that the broker, dealer or municipal securities dealer is entitled to a profit, and the total dollar amount of the transaction. ([FINRA Case #2007008011601](#))

Individuals Barred or Suspended

Shanoa Adrienne Rose Akins (CRD #4552640, Associated Person, Sunrise, 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, Akins consented to the described sanction and to the entry of findings that she misappropriated approximately \$1.1 million from her member firm. The findings stated that Akins created false entries in the firm's books and records, ranging in amounts of \$250 to \$50,000, which caused the firm to pay her money to which she was not entitled. ([FINRA Case #2011027093001](#))

Francis Paul Anton II (CRD #2626685, Registered Representative, Memphis, Tennessee) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Anton'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, Anton consented to the described sanctions and to the entry of findings that he effected fictitious trades in securitized Small Business Administration (SBA) loans, totaling \$82,652,497, in order to reduce his member firm's SBA desk's inventory levels. The findings stated that Anton effected the fictitious trades to purported institutional buy-side customers and by doing so, Anton could gradually sell the SBA securities and eventually comply with the firm's prescribed inventory level. The findings also stated that the fictitious trades created the false impression that Anton had purportedly sold SBA securities to certain of the firm's institutional customers and that the firm's SBA desk had decreased

overall inventory levels by a total of \$75 million. The findings also included that Anton purportedly sold each of the fictitious SBA securities to other broker-dealers instead of institutional customers; and by entering the fictitious sales of the SBA securities at a price above the mark-to-market price, Anton created the false impression that he had avoided selling the SBA securities at a loss.

FINRA found that Anton manipulated forward the settlement dates for the trades to afford him additional time to try to sell the SBA securities. FINRA also found that in 30-day forward settlement intervals, Anton cancelled and corrected trades in the same pool of SBA securities at the same transaction quantity, which triggered the creation of a “cancel & correct” ticket. In addition, FINRA determined that a firm employee discovered a discrepancy in the SBA securities’ reporting position and reported the observation to the firm’s management, which investigated and noted the repeated pattern of cancellation and corrections relating to the SBA security trades in 30-day intervals. Moreover, FINRA found that although Anton neither colluded with any other firm employees to enter the fictitious trades nor did he personally benefit from the fictitious trading, he misrepresented to certain non-supervisory firm staff that he had mistakenly effected the trades and that he would correct the errors. Furthermore, FINRA found that when Anton’s managers confronted him, he admitted that he effected false trades and manipulated the corresponding settlement dates.

The suspension is in effect from May 2, 2011, through November 1, 2011. ([FINRA Case #2009018062601](#))

John Brady Benson Sr. (CRD #18588, Registered Representative, Minneapolis, 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 45 days. The fine must be paid either immediately upon Benson’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, Benson consented to the described sanctions and to the entry of findings that he engaged in outside business activity, outside the scope of his employment with his member firm, when he facilitated the sale of his relative’s company to an individual without providing prompt written notice to his firm of the dealings and, as compensation for facilitating the acquisition, accepted a finder’s fee in the form of 50,000 shares of stock in the newly formed corporation. The findings stated that Benson provided the individual with \$11,000 to be used to pay expenses of the newly formed corporation, and in exchange, Benson acquired 1.1 million shares of stock in the corporation. The findings also stated that the shares of stock were securities, the transaction was conducted entirely apart from Benson’s employment with his firm, and Benson did not give his firm prior written notice of, and the firm did not give him prior written approval of, the transaction.

The suspension was in effect from April 18, 2011, through June 1, 2011. ([FINRA Case #2009019322201](#))

Stephen L. Booher (CRD #4456573, Registered Supervisor, Celina, Ohio) 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 five business days. The sanctions take into consideration that his member firm previously sanctioned Booher for these activities. The fine must be paid either immediately upon Booher'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, Booher consented to the described sanctions and to the entry of findings that he effected securities transactions in a municipal customer's account on a discretionary basis without prior written authorization from the customer's authorized representative and his firm's prior written acceptance of the account as discretionary.

The suspension was in effect from May 16, 2011, through May 20, 2011. ([FINRA Case #2009017080101](#))

William Vincent Canale II (CRD #1420779, Registered Representative, Niskayuna, 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 one year. Without admitting or denying the allegations, Canale consented to the described sanctions and to the entry of findings that he submitted false compliance questionnaires to his member firm in which he denied that he acted in a fiduciary capacity for firm customers and/or had a financial interest in any firm customer account although he did, in fact, act in a fiduciary capacity and/or had a financial interest in connection with firm customers' accounts.

The suspension is in effect from May 16, 2011, through May 15, 2012. ([FINRA Case #2008012601301](#))

Abhijit Chakrabortti (CRD #4928484, Registered Representative, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$15,000, suspended from association with any FINRA member in any capacity for 15 days and required to re-qualify as a research analyst by such examination as required by FINRA, prior to participating in any capacity in any research reports and/or public appearances involving any FINRA member. The fine must be paid either immediately upon Chakrabortti'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, Chakrabortti consented to the described sanctions and to the entry of findings that he failed to ensure proper disclosure of his personal financial interests in the securities of companies that were subjects of his research reports and public appearances. The findings also stated that Chakrabortti informed his firm of his ownership interest in each security, gave advance notice of all transactions in these securities to the firm's compliance department and provided the firm with a record of the transactions.

FINRA found that certain of the research reports Chakrabortti co-authored included information reasonably sufficient upon which to base an investment decision in the companies in which he held shares, among other securities, but the reports did not disclose his personal financial position in some of the companies. FINRA also found that Chakrabortti made public appearances at which he mentioned one or more equity securities of individual companies but did not disclose his personal financial position in the securities in some of the companies. In addition, FINRA determined that because Chakrabortti's disclosure of his personal financial holdings was incomplete in certain research reports and public appearances, these communications violated NASD Rule 2210(d)(1)(A), which requires sales material, including research reports, to provide a sound basis for evaluating the facts relating to the securities covered in the reports. Moreover, after disclosing all of his personal financial holding to his firm, Chakrabortti did not ensure that these holdings were subsequently disclosed in certain research reports, which caused his firm to publish incomplete research reports. Furthermore, FINRA found that Chakrabortti did not inform his firm of certain of his public appearances in a timely manner, and did not obtain the firm's approval to discuss certain issuers during his public appearances, and these omissions caused the firm to have incomplete records of his public appearances.

The suspension was in effect from April 18, 2011, through May 2, 2011. ([FINRA Case #2009017892301](#))

Uzo Omar Chima (CRD #3067054, Registered Principal, Baltimore, Maryland) submitted an Offer of Settlement in which he was fined \$75,000, suspended from association with any FINRA member in any capacity for two years, and ordered to pay \$12,443.73, plus interest, in restitution to customers. The fine and restitution must be paid either immediately upon Chima'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, Chima consented to the described sanctions and to the entry of findings that he engaged in a pattern of unsuitable short-term trading and switching of unit investment trusts (UITs), closed-end funds (CEFs) and mutual funds in retired and/or disabled customer accounts without having reasonable grounds for believing that such transactions were suitable for the customers in view of the nature, frequency and size of the recommended transactions and in light of their financial situations, investment objectives, circumstances and needs. The findings stated that some of the transactions were effected through excessive use of margin and without ensuring that customers received the maximum sales charge discount. The findings also stated that in furtherance of his short-term trading strategy, Chima engaged in discretionary trading without prior written authorization, falsified customer account update documents and mismarked trade tickets for each of the customers' accounts, stating that the orders were unsolicited when, in fact, they were solicited. The findings also included that the transactions generated approximately \$450,000 in commissions for Chima and his firm, and approximately \$370,000 in losses to the customers; some customers also paid over

\$75,000 in margin interest. FINRA found that in numerous UIT purchases, none of which exceeded \$250,000, Chima failed to apply the rollover discount to which each customer was entitled. FINRA also found that Chima caused his member firm's books and records to be false in material respects, in that he provided false information on customer update forms for customers' accounts, signed the forms certifying that they were accurate and submitted them to his firm.

The suspension is in effect from April 18, 2011, through April 17, 2013. ([FINRA Case #2006007105101](#))

Carla Wendy Cooper (CRD #838334, Registered Representative, Hawthorne, California) 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, Cooper consented to the described sanction and to the entry of findings that she forged a LOA for a customer by copying the customer's signature from another document and pasting it on the LOA. The findings stated that Cooper used the forged LOA to authorize the transfer of assets from the customer's account into another customer's account, which was a trust account Cooper's relatives' controlled. The findings also stated that based on the forged LOA, Cooper's member firm transferred securities valued at \$19,632.35 from the customer's account into the other account without the customer's knowledge or authorization. ([FINRA Case #2010023825201](#))

Scott William Coy (CRD #2441990, Registered Representative, Irwin, Pennsylvania) 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, Coy consented to the described sanction and to the entry of findings that he participated in private securities transactions without prior written notice to, or prior written approval from, his member firms. The findings stated that Coy sold limited liability company interests totaling approximately \$5.5 million to investors, many of whom were customers of his firms, in private offerings. The findings stated that proceeds from those securities offerings were used to invest in entities that acquired and operated residential apartment complexes, and Coy received compensation of approximately \$327,250 through the offerings. ([FINRA Case #2009020923301](#))

Dean Irwin Cronister (CRD #57470, Registered Principal, Burr Ridge, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$43,000, which includes disgorgement of commissions, and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Cronister'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, Cronister consented to the described sanctions and to the entry of findings that he participated in the sales of a total of \$266,302.51 in Universal Lease Programs (ULPs) to public customers and failed to provide his member

firms with prior written notice and failed to obtain the firms' prior written approval; Cronister received approximately \$33,080 total in commissions. The findings stated that Cronister engaged in outside business activities and accepted a total of \$64,491.64 in checks from a ULP issuer made payable to a corporation he wholly owned; the checks were for sales of ULPs made by independent agents of his corporation. The findings also stated that Cronister failed to provide prompt written notice of his outside business activities to his member firms. The findings also included that Cronister participated in a face-to-face interview with a compliance officer at one of his firms, acknowledged that all forms of outside business activities must be disclosed on an outside business activity form and must receive the firm's written approval prior to engaging in any outside business activity but never provided oral or written notification that he was engaged in outside business activity and receiving overrides on the sale of ULPs by other individuals.

The suspension is in effect from April 18, 2011, through October 17, 2011. ([FINRA Case #2009016709019](#))

Michael Asher Dagnan (CRD #4060750, Registered Representative, Arlington, Texas) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Dagnan failed to respond to FINRA requests for information regarding allegations that he had engaged in a pattern of selling life insurance policies that subsequently lapsed or were cancelled due to non-payment, and Dagnan failed to refund \$318,000 in commissions he received. ([FINRA Case #2008015585001](#))

Robert James DelVecchio Jr. (CRD #1649770, Registered Principal, Wading River, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, DelVecchio consented to the described sanction and to the entry of findings that he failed to appear for a FINRA on-the-record interview. ([FINRA Case #2010021475301](#))

Darren Joseph Dietrich (CRD #1814017, Registered Representative, Plant City, Florida) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Dietrich failed to appear and testify at FINRA on-the-record interviews. The findings stated that Dietrich executed unauthorized transactions in the account of his member firm's customer when he sold and purchased shares without the customer's prior knowledge, authorization or consent. ([FINRA Case #2009016660701](#))

Michael Wayne Evans (CRD #1726255, Registered Representative, Mount Sinai, New York) submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. FINRA did not seek restitution on behalf of the customers because Evan's former member firm reimbursed the customers for the entirety of their losses. In addition, Evans reimbursed his former firm approximately \$47,000 of the \$60,000 that he misappropriated from the customers and is in the process of earning the remaining \$13,000. Without admitting or denying the allegations, Evans consented to the described sanction and to the entry of findings that he converted securities and funds in the joint

brokerage account of customers, without their knowledge, authorization or consent, and deposited the funds into his personal checking account, converting an aggregate total of \$60,000. The findings stated that Evans forged a customer's signature on checks linked to the customers' bank account and made the checks payable to "cash" or to himself. The findings also stated that Evans forged the customer's signature on a cash withdrawal form linked to the customers' bank account. The findings also included that Evans, without the customers' knowledge, authorization or consent, sold securities totaling \$30,000 from their brokerage account, transferred \$10,000 to their bank deposit account and applied \$10,000 to their brokerage account margin balance. FINRA found that Evans failed to respond to FINRA requests for a signed, written statement regarding its investigation. ([FINRA Case #2009017222501](#))

Allen William Foiles (CRD #2045454, Registered Principal, West Chester, Ohio) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Foiles fabricated his member firm's records to indicate that he had taken required actions when he had not after the firm had placed him under heightened supervision. The findings stated that the heightened supervision imposed several requirements upon Foiles; his firm assigned him a specific number of clients to contact, and required him to meet with registered representatives assigned to him, review a number of registered representatives' files, and record onto compliance forms the information gathered during review of representatives' files. The findings also stated that Foiles misled and deceived his firm about performing his assigned compliance responsibilities, and creating and submitting false documents, and caused his firm to maintain inaccurate books and records. The findings also included that the firm terminated Foiles' employment after he admitted to lying to supervisors about completing required compliance reviews of registered representatives. FINRA found that Foiles failed to respond to FINRA requests for information. ([FINRA Case #2009016494001](#))

Thomas Michael Greenjack (CRD #3188356, Registered Representative, Williamstown, New Jersey) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Greenjack forged and falsified annuity applications, which he submitted to his firm and an insurance company. The findings stated that Greenjack sold annuities an insurance company offered to customers even though he was not authorized to sell the products. The findings also stated that Greenjack completed annuity applications for the customers, listed another registered representative, who had never met the customers, as the sole authorized agent on the applications and signed the registered representative's name on annuity applications without permission or authority from the registered representative, Greenjack's member firm or the insurance company; he then caused the forged and falsified applications to be submitted to his firm and the insurer. The findings also included that Greenjack asked the registered representative to sign other annuity applications as the sole authorized agent, which the registered representative did without meeting or speaking with the customers, thereby falsely verifying that he had reviewed all the points in the application with the client. ([FINRA Case #2009016923601](#))

Holly Ann Gunnette (CRD #3066284, Registered Representative, Riverside, California) submitted an Offer of Settlement in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Gunnette consented to the described sanction and to the entry of findings that she took more than \$925,000 from investment accounts owned by an elderly customer at her member firm and converted the funds to her personal use. The findings stated that Gunnette caused her personal residence to be reflected as the address of record for certain investment accounts of the elderly customer, and established an account for the customer at another member firm, using her personal residence address as the account's address of record. The findings also stated that Gunnette received checks drawn on the customer's accounts totaling approximately \$925,513.28 and deposited the checks into bank accounts she owned or controlled. The findings also stated that Gunnette failed to observe high standard of commercial honor and just and equitable principles of trade. The findings also included that Gunnette caused her firm's and another firm's records to be falsified by changing the customer's address of record with her firm to her personal residence address, and by designating her address as the customer's address of record on the other firm's account she opened for the customer. ([FINRA Case #2006004943101](#))

Cholia Hicks (CRD #5467605, Registered Representative, Lexington, Kentucky) 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, Hicks consented to the described sanction and to the entry of findings that she used the debit card belonging to a customer of her member firm's bank affiliate, in transactions for personal expenses without the customer's knowledge, authorization or consent. The findings stated that Hicks converted at least \$1,100.43. ([FINRA Case #2010022212301](#))

Cristin Shea Hobson (CRD #5308126, Registered Representative, Joplin, Missouri) 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, Hobson consented to the described sanction and to the entry of findings that she misappropriated a total of approximately \$18,300 from several customers who paid cash or wrote checks for insurance policies, and gave the cash and checks to Hobson as the agent for her member firm's insurance affiliate. The findings stated that of the \$18,300 total payments, Hobson never deposited \$11,300 in cash payments to the insurance affiliate's bank account as payment for her customers' insurance policies, and Hobson used the cash for personal expenses. The findings also stated that out of the \$18,300, Hobson deposited approximately \$7,000 in payments made by checks, but did not apply the money toward insurance policies for the customers who made the payments; rather, she applied the money toward earlier customers' past due insurance policies by crediting the earlier policies. The findings also included that Hobson applied approximately \$700 of these payments to her own personal insurance policies by crediting her policies. ([FINRA Case #2010022857701](#))

Joseph Louis Jacoby (CRD #2619787, Registered Representative, Las Vegas, Nevada) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$2,500 and suspended from association with any FINRA member in any capacity for five business days. Without admitting or denying the findings, Jacoby consented to the described sanctions and to the entry of findings that he exercised discretion in the securities account of a customer of his member firm while effecting transactions, without obtaining the customer's prior written authorization to exercise such discretion or his firm's prior written acceptance of the discretionary account.

The suspension was in effect from May 2, 2011, through May 6, 2011. ([FINRA Case #2010021688401](#))

Scott Davis Johnson (CRD #4772003, Registered Principal, Baton Rouge, Louisiana) 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, Johnson consented to the described sanctions and to the entry of findings that he was employed with a state-registered investment adviser company and after learning that performance values being reported in monthly statements to investors were inconsistent with actual performance figures to investors, he continued to forward monthly statements to investors when requested to do so. The findings stated that after discovering that the gain/loss values reported in the monthly statements were inconsistent with actual performance of the funds, Johnson questioned the investment adviser company's president, who falsely stated that the statements reflected personal monetary contributions he made to the funds in the form of waived management fees. The findings also stated that Johnson continued to forward the statements to investors without informing the recipients that the performance values represented "adjusted" values, and without attempting to confirm whether the investment adviser company's president was actually making monetary contributions.

The suspension is in effect from May 2, 2011, through September 1, 2011. ([FINRA Case #2009018077101](#))

Jeremy Kenneth Kelter (CRD #843565, Registered Principal, Lake Worth, 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 three months. The fine must be paid pursuant to the installment payment plan as designated on the election of payment form either immediately upon Kelter'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, Kelter consented to the described sanctions and to the entry of findings that he sold fixed annuities to investors outside the scope of his employment with his member firm, for which he received compensation totaling approximately \$69,000. The findings stated that Kelter never provided his firm with written notice of these sales.

The suspension is in effect from April 18, 2011, through July 17, 2011. ([FINRA Case #2009019380701](#))

David Alan Kepes (CRD #860991, Registered Representative, San Antonio, Texas) 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 seven months. The fine must be paid either immediately upon Kepes' 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, Kepes consented to the described sanctions and to the entry of findings that contrary to his member firm's prohibition on accepting loans from customers, he borrowed \$50,000 from a customer. The findings stated that the loan, not documented and not backed by collateral, was a "bridge loan" pending payment of the firm's annual retention bonus, to assist Kepes with a number of immediate expenses. The findings also stated that Kepes held the loan for six months and 20 days, repaying \$53,000 to the customer. The findings also included that Kepes encouraged the same customer to loan \$30,000 to a realtor to assist in "flipping" (buying, repairing and then selling) a house.

FINRA found that the customer advanced the funds as a favor to Kepes, without documentation or collateral, but the realtor never repaid the loan. FINRA also found that Kepes' firm paid the customer \$30,000 to compensate her for the money the realtor failed to repay. In addition, FINRA determined that Kepes accepted a \$1,000 check as a gift from the customer although firm policy prohibited accepting gifts in excess of \$100. Moreover, FINRA found that Kepes, contrary to firm policy and without informing his firm, entered into an Advisory Board Agreement to serve as an independent contractor for a privately held business and was compensated by stock options with some of the shares being exercisable on the date the agreement was signed, in recognition of services already provided prior to signing the agreement. Furthermore, FINRA found that Kepes' supervisor directly informed him that he could not join the company advisory board or engage in other activities called for by the agreement when compensated by stock options; nevertheless, Kepes signed the agreement and engaged in various activities called for by the agreement. The findings also stated that subsequently, Kepes requested approval to participate on the Advisory Board without informing his firm that, prior to his request, he signed the agreement and began service as an independent contractor to the company. The findings also included that after the request was denied, Kepes continued his service to the company as an independent contractor without informing his firm until the firm terminated him.

The suspension is in effect from May 16, 2011, through December 15, 2011. ([FINRA Case #2009019009101](#))

Kirk Kenneth Kepper (CRD #2980989, Registered Representative, Baton Rouge, Louisiana) 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, Kepper consented to the described sanction and to the entry of findings that he engaged in outside business activities when he formed limited liability companies and failed to inform his member firm of the companies and of the position he held in the companies. The findings stated that Kepper failed to respond to a FINRA request to appear for an on-the record interview. ([FINRA Case #2009020594801](#))

Michael Douglas Larsen (CRD #4796817, Registered Representative, Staten Island, New York) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Larsen convinced an elderly bank customer to surrender annuities totaling approximately \$355,000, which he deposited into the customer's bank checking account. The findings stated that Larsen debited the customer's bank checking account approximately \$94,000 and purchased a bank check in that amount payable to an entity and opened an account at that entity for the customer; Larsen then executed an internal form with the entity that effectively changed the name on the account to an entity that Larsen owned and controlled, thereby misappropriating the customer's money, without the customer's authorization. The findings also stated that Larsen, took approximately \$261,000 from the customer's bank checking account at his member firm kept \$4,500 for his personal use, gave \$1,250 to the customer and had a bank check issued for the remaining approximately \$255,000 payable to the entity Larsen owned and controlled, and deposited the funds into a checking account at the bank in the entity's name. The findings also included that Larsen used a debit card associated with the checking account in the name of his entity to make purchases for his personal benefit totaling approximately \$72,000, which was funded by proceeds from the customer's bank checking account, without the customer's authorization. FINRA found that when the customer reviewed his bank statements and noted that some of his money was not in the bank account, he made inquiries to the bank and the bank sued Larsen to recover funds that he had transferred out of the customer's bank account. FINRA also found that the bank was able to recover approximately \$183,000 from Larsen, which it used to repay the customer and paid the customer an additional \$171,000 to make him whole. In addition, FINRA determined that Larsen failed to respond to FINRA requests for documents. ([FINRA Case #2009018143701](#))

Eric Lichtenstein (CRD #4508335, Registered Principal, Middletown, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Lichtenstein consented to the described sanction and to the entry of findings that he intentionally provided false testimony during a FINRA on-the-record interview regarding his knowledge of, and participation in, private securities transactions involving solicitation and sale of private placements within the branch for which he was employed as the branch manager. The findings stated that Lichtenstein participated in the sale of private securities in the

total amount of \$234,303.68 to customers without his member firm's prior written approval. The findings also stated that Lichtenstein failed to reasonably supervise a branch office for which he acted as a branch manager. The findings also included that in response to a request to sell private placements at the branch, which Lichtenstein's firm had specifically denied, stating that no one at the branch had approval to sell any private placements and Lichtenstein was aware of this prohibition, he learned of other private placements being sold by a branch registered representative and failed to inform the firm's compliance department of the sales. FINRA found that because Lichtenstein was responsible for the review of electronic mail at the branch, he knew, or should have known through email review, of red flags indicating the sale of additional private placements but did not conduct additional investigation and did not inform the firm's compliance department of the red flags. ([FINRA Case #2009018339703](#))

Jeffrey Nicholas Lombardi (CRD #2625940, Registered Principal, Hillside, 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 15 business days. Without admitting or denying the findings, Lombardi consented to the described sanctions and to the entry of findings that he improperly transferred confidential and proprietary information outside of his member firm for purposes other than the firm's business. The findings stated that Lombardi sent to a non-affiliated, third-party member firm internal compliance reports of his member firm that contained non-public personal information regarding customers; sent to his personal email address internal documents of his firm that included non-public personal information of individuals derived from a request by Financial Crimes Enforcement Network (FinCEN) of the U.S. Department of Treasury and the firm's internal summary regarding certain registration requirements; and sent to his personal email address documents with another firm customer's non-public personal information. The findings also stated that in each of these instances, Lombardi acted without the firm's authorization and knowledge, and contrary to its written policies and procedures. The findings also included that by sending a report with confidential, non-public personal customer information to a non-affiliated third party, Lombardi caused his firm to violate SEC Regulation S-P.

FINRA found that by transferring information from a FinCEN list to his personal email account, Lombardi acted for purposes other than those provided for under FinCEN regulations, and thereby caused his firm to violate FinCEN's regulations. FINRA also found that Lombardi knew of his firm's policies regarding the dissemination of confidential and/or proprietary information, knew or should have known that SEC Regulation S-P prohibits financial institutions from disclosing non-public personal information about a customer to non-affiliated third parties unless certain notice is given to the customer and the customer has not elected to opt out of the proposed disclosure, and knew, or should have known, that information derived from a FinCEN request may not be used for any purpose other than in accordance with FinCEN regulations. In addition, FINRA determined that Lombardi signed an affirmation and a certification that he had read and would comply with a Code

of Business Conduct and Ethics applicable to firm employees and would comply with the firm's written policy governing confidentiality of information and use of office equipment. Moreover, FINRA found that Lombardi signed a registered representative agreement in which he agreed that confidential and proprietary information about the firm and/or about existing and prospective firm customers may not be disseminated without requisite permission, and agreed to safeguard confidential and proprietary information from disclosure.

The suspension was in effect from May 16, 2011, through June 6, 2011. ([FINRA Case #2010023537101](#))

Philip Kenneth Mahler (CRD #3270318, Registered Principal, Scottsdale, Arizona) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000, suspended from association with any FINRA member in any capacity for four months, and suspended from association with any FINRA member in any principal and/or supervisory capacity for six months. The six-month principal and supervisory suspension shall run concurrently with the four month all-capacity suspension. The fine must be paid either immediately upon Mahler'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, Mahler consented to the described sanctions and to the entry of findings that he improperly created answer keys to state insurance continuing education (CE) exams a company administered. The findings stated that the company's president approached Mahler on different occasions and offered to provide him with answers to the company's CE exams. The findings also stated that the president provided Mahler with the answers to the CE exams over the phone or by handing copies of the answers to Mahler, and Mahler used these answers to create answer keys for the exams. The findings also included that Mahler improperly distributed the answer keys to an employee at his member firm and to multiple registered representatives outside of his firm.

FINRA found that on multiple occasions, while he was an external wholesaler, Mahler provided assistance to non-firm registered representatives while they were taking a state annuity examination for CE credit. FINRA also found that Mahler was in the offices of some registered representatives while they were taking the annuity examination; some of these registered representatives asked Mahler to give them the answers to certain of the questions on the examination, which Mahler provided. In addition, FINRA determined that Mahler failed to supervise in that he gave one direct report answer keys to state insurance CE exams.

The suspension in any capacity is in effect from May 2, 2011, through September 1, 2011. The suspension in any principal and/or supervisory capacity is in effect from May 2, 2011, through November 1, 2011. ([FINRA Case #2009017244601](#))

James Louis Marshall Jr. (CRD #1947199, Registered Principal, Louisville, Kentucky) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Marshall'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, Marshall consented to the described sanctions and to the entry of findings that he formed a limited liability company while associated with a member firm and, without seeking or obtaining his firm's approval, he offered and sold security interests in the company for sales proceeds totaling \$40,000.

The suspension is in effect from April 18, 2011, through October 17, 2011. ([FINRA Case #2009020188001](#))

David Elijah McKee (CRD #4138230, Registered Principal, Austin, Texas) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$15,000 and suspended from association with any FINRA member in any principal or supervisory capacity for 30 business days. The fine must be paid either immediately upon McKee'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, McKee consented to the described sanctions and to the entry of findings that in his capacity as the vice president of compliance, he failed to supervise certain aspects of his member firm's securities business. The findings stated that McKee, acting on his firm's behalf, failed to establish and maintain a supervisory system or written supervisory procedures reasonably designed to detect and prevent the firm from charging excessive commissions on mutual fund liquidation transactions, failed to adequately supervise the firm's communications with the public, and failed to adequately supervise the firm's compliance with NASD Rule 3070 and Uniform Termination Notice for Securities Industry Registration (Form U5) reporting provisions and customer complaint recordkeeping requirements. The findings also stated that McKee failed to comply with NASD Rules 3012 and 3013, in that the Rule 3012 and 3013 reports that he prepared on his firm's behalf were inadequate. The findings also included that the firm's 3012 report for one year was inadequate because it failed to provide a rationale for the areas that would be tested, failed to detail the manner and method for testing and verifying that the firm's system of supervisory policies and procedures were designed to achieve compliance with applicable rules and laws, and did not provide a summary of the test results and gaps found. FINRA found that the firm's 3012 report also failed to detect repeat violations including, the failure to conduct annual Office of Supervisory Jurisdiction (OSJ) branch office inspections, advertising violations, customer complaint reporting and ensuring that all covered persons participated in the Firm Element of Continuing Education. FINRA also found that the firm's 3013 report for one year did not document the processes for establishing, maintaining, reviewing, testing and modifying compliance policies to achieve compliance with applicable NASD rules, MSRB rules and federal securities laws, and the manner and frequency with which the processes are administered. In addition, FINRA

determined that the firm failed to enforce its 3013 procedures regarding notification from customers regarding address changes.

The suspension is in effect from May 16, 2011, through June 27, 2011. ([FINRA Case #2008011640801](#))

Marianne Springer Miller (CRD #1185168, Registered Principal, San Antonio, Texas) 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 one month. Without admitting or denying the findings, Miller consented to the described sanctions and to the entry of findings that she recommended investments to a customer that were not suitable to the customer given the customer's investment objectives, financial situations and needs. The findings stated that Miller and the customer had discussed and planned to take monthly withdrawals from the customer's retirement funds that complied with Internal Revenue Service (IRS) Rule 72(t) in order to avoid paying tax liability on the withdrawals. The findings also stated that the customer paid an upfront load of \$9,786.33 for the purchase of mutual fund A class shares; the total annual expense of the A class shares was \$2,934 and Miller received \$6,889.56 in connection with these transactions. The findings also included that the same day, Miller, despite never having sold a deferred variable annuity to a customer, recommended the purchase of a variable annuity to the customer and informed the customer of income protection and bonus features.

FINRA found that as a result of Miller's recommendation, the customer agreed to purchase the variable annuity even though she had purchased the A class shares, and paid the upfront load earlier that day. FINRA also found that Miller informed the customer that if the purchase of the A class shares could not be stopped, she would have to liquidate the shares for the purchase of the variable annuity. In addition, FINRA determined that the purchase placed all of the customer's retirement savings in the deferred variable annuity, the total annual expense of the deferred variable annuity with the income protection rider was \$10,513 and Miller received \$21,145 in compensation in connection with this transaction. Moreover, FINRA found that the customer's income protection rider was rendered moot as the withdrawal amount exceeded the 7-percent limit for withdrawals; although Miller did not perform the withdrawal calculation, she did not notice the calculation error until a later date. Furthermore, FINRA found that the resulting separate investment recommendations and purchases on the same day were not suitable for the customer given her investment objectives, financial situation and needs in light of the fact that the customer unnecessarily paid an upfront sales charge for the first investment, increased her annual expenses for the investment by over \$7,000 because the customer's entire retirement savings were ultimately over-concentrated in an illiquid deferred variable annuity, and because the withdrawal amount after the switch to the variable annuity was miscalculated, which rendered the benefit of the income protection rider moot.

The suspension is in effect from May 16, 2011, through June 15, 2011. ([FINRA Case #2009018856601](#))

John Duncan Montfort (CRD #832458, Registered Supervisor, San Antonio, Texas) submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 30 days. The fine must be paid either immediately upon Montfort'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, Montfort consented to the described sanctions and to the entry of findings that he exercised discretion in the joint account of customers and also exercised discretionary trades in the account of a business entity these customers owned without the customers' prior written authorization or his member firm's written acceptance of the accounts as discretionary. The findings stated that the firm did not permit discretion to be utilized in retail brokerage accounts at that time.

The suspension was in effect from April 18, 2011, through May 17, 2011. ([FINRA Case #2008015172301](#))

Thaddeus Newel (CRD #2060528, Registered Representative, Farmington Hills, Michigan) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Newel received checks totaling \$135,000 made payable to an entity Newel owned from a customer to be invested on her behalf and instead converted the funds for his personal use. The findings stated that Newel concealed his misconduct from the customer by fabricating and providing her with a Statement of Positions that falsely reflected certain investments he claimed he made in her account, including an annuity valued at \$137,714. The findings also stated that Newel failed to respond to FINRA requests for information and documents but sent an email to his firm's compliance officer asking where he should turn himself in. ([FINRA Case #2010021728601](#))

Robert Joseph Oftring (CRD #1058581, Registered Principal, Worcester, Massachusetts) 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 principal capacity for six months. Without admitting or denying the findings, Oftring consented to the described sanctions and to the entry of findings that he was responsible for supervising a former registered representative of his member firm and failed to take appropriate action to reasonably supervise her to detect and prevent her violations and achieve compliance with applicable rules in connection with a customer's account. The findings stated that Oftring, among other things, failed to take reasonable steps to follow up on certain indications of potential misconduct that should have alerted him to the representative's violations. The findings also stated that the representative engaged in excessive, short-term trading in the customer's account, which resulted in losses of approximately \$60,000; the account was subject to frequent margin calls and transfers from a third-party account to satisfy margin calls in the account, and once, the representative transferred funds back to the third-party account by forging the customer's signature on an LOA. The findings also included that Oftring was aware of the active trading in the customer's account and knew that the

representative was effecting securities transactions in the account while it had a negative balance, but he never stopped the representative from trading and never contacted the customer to discuss the activity. FINRA found that Oftring was aware of and approved the transfer of funds between the customer's account and the third-party account, and accepted the representative's explanation for the same without contacting the customers involved in the transfers.

The suspension is in effect from May 2, 2011, through November 1, 2011. ([FINRA Case #2009019996501](#))

Joseph Stephen Orendorff (CRD #4088280, Registered Representative, Seven Valleys, Pennsylvania) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Orendorff failed to respond to FINRA requests to appear for an on-the-record interview. The findings stated that Orendorff, in an attempt to correct errors made on a customer's signed asset transfer disclosure form that his firm had returned to him for correction and resubmission obtained the customer's signature on a blank asset transfer disclosure form, affixed the customer's signature from the blank form to revised forms and submitted the forms to his member firm instead of having the customer sign a corrected form. The findings stated that when the firm questioned Orendorff about the documents, he admitted to altering and submitting them; the firm terminated Orendorff's employment because the firm prohibited its representatives from affixing signatures to documents and required original signatures on each form. ([FINRA Case #2009016698303](#))

Oscar Tomas Ortiz III (CRD #5369199, Registered Representative, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Ortiz consented to the described sanction and to the entry of findings that he took and failed the Series 63 examination several times, and shortly after becoming employed with his member firm, he told the firm that he had passed the Series 63 exam. The findings stated that when the firm questioned Ortiz about his claim to have passed the Series 63 exam, he provided the firm with a photocopy of a fabricated score report that purported to establish his passing grade on the Series 63 exam. The findings also stated that Ortiz provided the firm with information and documents through which he falsely represented his college credentials. ([FINRA Case #2009019460001](#))

Matthew Mark Rairigh (CRD #4364749, Registered Representative, Wintersville, Ohio) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Rairigh consented to the described sanction and to the entry of findings that he submitted false life insurance applications to an insurance carrier in order to generate commissions and to inflate his production numbers. The findings stated that the proposed insureds had never agreed to apply for the policies and the policies were submitted without

their knowledge or consent. The findings also stated that Rairigh completed the life insurance applications, falsified the customers' signatures, listed his business address as the address to send the next quarterly premium notice and paid the initial premium. The findings also included that after the life insurance policy was issued, Rairigh would take the policy to the customer and seek to convince the customer to keep the policy by explaining that the customer merely had to continue to pay the quarterly premiums in order to keep it. ([FINRA Case #2009018240001](#))

Jon Tadd Roberts (CRD #5350230, Registered Representative, Casa Grande, Arizona) 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, Roberts consented to the described sanction and to the entry of findings that he sent unapproved emails from his personal email address to his member firm's customers and a potential investor that consisted of emails with attached documents containing misrepresentations and misleading statements that he created on his home computer that were written on his firm's letterhead. The findings stated that Roberts misrepresented that his firm would approve the issuance of a line of credit of up to \$10 billion to a firm customer and a potential investor if certain conditions were met. The findings also stated that Roberts attached another document concerning the issuance of a multi-billion dollar line of credit to additional emails he sent to a firm customer. The findings also included that Roberts did not provide copies of the documents for review and approval to his firm. FINRA found that by attaching documents that contained misrepresentations and misleading statements to emails sent to a firm customer and a potential investor, Roberts exposed his firm to significant potential liability. FINRA also found that Roberts sent an unapproved email from his personal email to another firm customer and attached a letter on firm letterhead with wire transfer instructions in connection with certificates of deposit. In addition, FINRA determined that Roberts forwarded the unapproved correspondence from his home computer, thereby bypassing the firm's surveillance systems and preventing the firm's review and approval. ([FINRA Case #2009018509601](#))

Rameshkumar Chuharmal Sadhwani (CRD #1033135, Registered Representative, Mumbai, India) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for two years. The fine must be paid either immediately upon Sadhwani'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, Sadhwani consented to the described sanctions and to the entry of findings that he failed to provide a timely response to FINRA requests for information and documents.

The suspension is in effect from May 16, 2011, through May 15, 2013. ([FINRA Case #2010024370002](#))

Jorge Ivan Salgado (CRD #4395823, Registered Representative, Miami, 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 10 business days. The fine must be paid either immediately upon Salgado'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, Salgado consented to the described sanctions and to the entry of findings that he exercised discretion on transactions in the account of customers at his member firm, without the customers' written authorization and without his firm's acceptance of the account as discretionary.

The suspension was in effect from May 2, 2011, through May 13, 2011. ([FINRA Case #2009018425601](#))

Michael Lewis Serota (CRD #2169739, Registered Principal, Englewood, Colorado) 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, Serota consented to the described sanction and to the entry of findings that he converted a total of \$195,421.80 from the brokerage account of a customer of his previous member firm. The findings stated that Serota, without authorization, forged the customer's signature on LOAs to effectuate the conversion of funds from the customer's account to bank accounts Serota and a third party controlled for Serota's personal use. ([FINRA Case #2011026905901](#))

Charles Edward Severt Jr. (CRD #2866408, Registered Representative, Dayton, Ohio) was barred from association with any FINRA member in any capacity. FINRA is not seeking restitution because Severt's relative repaid the funds to the church. The sanction was based on findings that, while serving as a church treasurer, Severt took approximately \$20,000 in funds from the church without the church's authorization. The findings stated that Severt's relative subsequently repaid the funds. The findings also stated that Severt failed to respond to FINRA requests for information. ([FINRA Case #2010023062101](#))

Jeremy Blake Shankster (CRD #2887067, Registered Representative, Las Vegas, Nevada) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Shankster failed to respond to FINRA requests for information and documents. The findings stated that Shankster participated in private securities transactions without providing prior written notice to his member firm. ([FINRA Case #2009016927501](#))

Daniel Scott Sheedy (CRD #2126369, Registered Representative, Dallas, Texas) submitted an Offer of Settlement in which he was fined \$25,000 and suspended from association with any FINRA member in any capacity for two years. The fine must be paid either immediately upon Sheedy'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, Sheedy consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without providing written notice to, or obtaining written approval from, his member firm. The findings stated that Sheedy facilitated two firm customers' investments in securities issued by an entity in the form of investment agreements. The findings also stated that according to the investment agreements the entity issued, the company invested in and brokered life settlement contracts. The findings also included that Sheedy participated in the customers' investments by reviewing the customers' investment agreements, providing the customers with wiring instructions for the issuer, providing status updates to the customers regarding their investments and telling the customers to call him if they had any questions about their investments. FINRA found that Sheedy utilized an unapproved personal email account to communicate with the customers. FINRA also found that the customers invested a total of \$350,000, and pursuant to the terms of the customers' investment agreements, the customers were to receive return of their principals plus a total of \$42,000 within five days of the end of their investment period for which certain life settlement contracts were invested. In addition, FINRA determined that neither of the customers received the return of their investment principal or the promised investments returns; all of their funds were lost.

The suspension is in effect from May 2, 2011, through May 1, 2013. ([FINRA Case #2008015180901](#))

Edward R. Von Lumm IV (CRD #4843052, Registered Representative, Stroudsburg, Pennsylvania) 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, Von Lumm consented to the described sanction and to the entry of findings that he borrowed \$5,000 from one of his customers and executed a promissory note stating that the loan was to be paid in full by a certain date, with \$1,000 interest. The findings stated that Von Lumm repaid approximately \$2,100 to the customer but did not disclose the loan to his member firm; the firm prohibited its representatives from borrowing from customers. The findings also stated that the same customer gave Von Lumm \$500 towards the purchase of auto and homeowners insurance; Von Lumm failed to procure any insurance policies for the customer and did not immediately return the funds to the customer. The findings also included that pursuant to the customer's request, Von Lumm wrote a note to the customer promising to return the \$500 and has since returned the funds to the customer. FINRA found that Von Lumm provided an incomplete response to FINRA requests for information and failed to appear for testimony. ([FINRA Case #2010024607801](#))

Montford Sater Will (CRD #467291, Registered Principal, New Albany, Ohio) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for 60 days. After consideration of the sanctions the State of Ohio previously imposed on Will, FINRA determined to give

him credit for the amount he paid the state and the 45-day suspension he previously served. Accordingly, the \$10,000 fine and 45 days of the suspension assessed were deemed to have been fulfilled. Without admitting or denying the findings, Will consented to the described sanctions and to the entry of findings that he made a series of political campaign contributions to various candidates and parties, donating a total of approximately \$121,000 to campaigns in his relatives' names. The findings stated that these campaigns included local, county and municipal races, statewide races and state political parties. The findings also stated that Will admitted that by making the political contributions in his relatives' names, he violated Ohio Revised Code Section 3517.13(G)(2)(a), which prohibits a person from making a campaign contribution in another person's name.

The suspension was in effect from May 2, 2011, through May 16, 2011. ([FINRA Case #2009018334601](#))

Chenyng Lee Williamson (CRD #2753331, Registered Representative, Cincinnati, Ohio) 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, Williamson consented to the described sanction and to the entry of findings that she altered annuity contracts for customers at her member firm by cutting and pasting incorrect interest rates on the contracts without the firm's knowledge or approval. The findings stated that Williamson made a misrepresentation to a firm customer and failed to disclose material information to the customer in connection with the customer's purchase of mutual fund shares. The findings also included that Williamson misrepresented to the customer that her account would not be charged a fee for partially liquidating her mutual fund investment; subsequently, the customer purchased \$156,000 in mutual fund shares; \$29,346 of which the customer liquidated, and as a result, her account was assessed a contingent deferred sales charge (CDSC) of \$299.82 for the liquidation of the shares. FINRA found that Williamson failed to respond to FINRA requests to provide a written statement. ([FINRA Case #2009017861401](#))

Individual Fined

Freddy A. Medina (CRD #4988363, Registered Representative, New Brunswick, New Jersey) was censured and fined \$10,000. The sanctions were based on findings that Medina falsified an account application by copying a customer's signature from a document she had previously signed and then cut-and-pasted the signature on to the account application without her knowledge, authorization or consent. The findings stated that Medina presented the falsified application to his member firm without disclosing that the customer had not actually signed it. The findings also stated that Medina caused the application to be false, which caused his firm to retain and preserve a false and/or inaccurate record. ([FINRA Case #2009016551301](#))

Complaints Filed

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

Charles Caputo Jr. (CRD #2715387, Registered Representative, Wading River, New York) was named as a respondent in a FINRA complaint alleging that he provided false account statements to a customer for personal and corporate accounts, which the customer held at Caputo's member firm, with the intent of leading the customer to believe the accounts held securities valued as high as \$600,000 although both accounts had incurred substantial losses. The complaint alleges that during the entire time period the accounts were held at Caputo's firm, the customer received account statements through the firm's clearing firms and at the same time, the customer also received fabricated account statements Caputo provided to him. The complaint also alleges that the typical one-page fabricated account statement listed the account name and number, the statement period, a false market value, a false cash balance and a false option value. The complaint further alleges that copies of the false statement show that they were transmitted by facsimile from Caputo's home office fax number. In addition, the complaint alleges that the false statements the customer received from Caputo reported that the personal account was valued at \$292,020.53 and that the corporate account was valued at \$325,446.36, when the personal account was valued at \$62.70 and the corporate account was closed. Moreover, the complaint alleges that the customer, apparently relying on the values shown on the false statements, contacted Caputo and requested that he wire \$120,000 from the corporate account; a few days after receiving the request, Caputo advised the customer that there was no money in either account. Furthermore, the complaint alleges that Caputo failed to appear and testify in a FINRA on-the-record interview. ([FINRA Case #2009016885101](#))

David I. Carter (CRD #4740584, Registered Representative, Lake Ronkonkoma, New York) was named as a respondent in a FINRA complaint alleging that he effected discretionary trades in a customer's account without the customer's prior written authorization. The complaint alleges that although Carter's member firm permitted discretionary accounts, it required its registered representatives to submit a written request; Carter did not submit a written request and the firm did not provide written acceptance of the account as discretionary. ([FINRA Case #2008013476001](#))

Thurman Ray Crawford (CRD #56786, Registered Principal, Beaumont, Texas) was named as a respondent in a FINRA complaint alleging that in order to obtain his member firm's approval for his intended sales of an offering, Crawford willfully omitted material facts during the employment negotiations regarding late payments and defaults by the issuer's

subsidiaries and failed to disclose the same material facts to customers in order to continue his sales of the issuer's investments. The complaint alleges that Crawford knew, or should have known, that his firm had requested the PPM for the offering in order to determine whether to approve his employment by the firm and his sale of the offering. The complaint also alleges that Crawford knew, or should have known, that the PPM for the offering made the misrepresentation that the issuer's affiliates had never missed a payment on their debt obligations. The complaint further alleges that Crawford received notice of late payment by the issuer's entities prior to his firm's approval of the offering, but did not disclose these late payments to his firm. In addition, the complaint alleges that as an investor in an offering, Crawford knew, or should have known, of the offering defaults. Moreover, the complaint alleges that following his firm's approval of the sale of the offering, Crawford received notice of the defaults by the issuer's entities, and in a continuing course of deception, he made misrepresentations and/or omissions of material fact in connection with the sale of offerings to customers. Furthermore, the complaint alleges that for each sale of the offerings, Crawford knew that customers were receiving a copy of the PPM for the offerings, knew that it falsely stated that none of the other issuer's companies had delayed interest payments or defaulted, and despite the materiality of this information, Crawford did not take any steps to correct the misinformation with his customers. The complaint also alleges that not only did Crawford omit to disclose the payment history of the issuer's entities from his firm and his customers who purchased the offering, but he also failed to inform prior purchasers of the defaults. The complaint further alleges that Crawford had also sold issues of other offerings to numerous customers while registered with another member firm, and declined the firm's offer to inform the customers of the issuer's late payments, stating that he would discuss the matter with the customers personally, but never initiated any conversations with prior investors regarding the delayed payments and defaults. In addition, the complaint alleges that any conversations that Crawford did have with investors occurred when investors called with concerns and resulted in him providing misleading information to the investors and false reassurances regarding the investment. ([FINRA Case #2009018817101](#))

Robert Marcus Lane Jr. (CRD #1411773, Registered Principal, North Palm Beach, Florida) was named as a respondent in a FINRA complaint alleging that he engaged in fraudulent interpositioning by causing his member firm to purchase distressed bonds from a broker-dealer and immediately caused the firm to sell the bonds at a markup to an entity he owned and controlled. The complaint alleges that Lane then caused his firm to repurchase the same bonds from the entity, typically at a second markup, and immediately caused his firm to sell the bonds to a firm customer at a third undisclosed markup. The complaint also alleges that Lane did not disclose to the customers that his firm had repurchased the bonds from one of the entities; the customers paid undisclosed markups ranging from 6.45 percent to 40.93 percent. The complaint further alleges that the interpositioning resulted in a profit totaling more than \$322,000 for his firm and the entities he owned and controlled; since he was the majority owner of the firm and the sole owner of the

entities, he personally benefited from the excessive profits the undisclosed markups earned. In addition, the complaint alleges that Lane knew, or was reckless in not knowing, that his interpositioning scheme would result in increased costs and excessive and fraudulent prices being charged to the customers, and were material facts he should have disclosed to the customers. Moreover, the complaint alleges that Lane charged unfair and unreasonable prices and excessive markups, and sold the bonds at prices that were not fair, taking into consideration all relevant circumstances, including market conditions with respect to such security at the time of the transaction, the expense involved, the fact that the firm is entitled to a profit and the factors set forth in NASD Interpretative Material-2440. Furthermore, the complaint alleges that Lane failed to provide complete and timely responses to FINRA's request for information and documents. ([FINRA Case #2007008204901](#))

William John Liebl (CRD #5105157, Registered Representative, Edmond, Oklahoma) was named as a respondent in a FINRA complaint alleging that he misappropriated a total of approximately \$5,052.09 from customers who had purchased insurance policies through Liebl. The complaint alleges that the customers gave Liebl cash and checks to pay for their insurance premiums, but instead of using the money to pay for their insurance premiums, Liebl kept their money for his own use. The complaint also alleges that Liebl failed to respond to FINRA requests for information and documents. ([FINRA Case #2009020393901](#))

Guy Eugene Richardson (CRD #2926034, Registered Representative, Topeka, Kansas) was named as a respondent in an FINRA complaint alleging that he recommended customers invest in a corporate bond fund for which he guaranteed dividend yields and that the funds were a conservative investment, but contrary to Richardson's representations, the fund did not have a guaranteed dividend yield or return, and the fund's semi-annual report stated the securities were considered speculative because of a greater risk of loss and were subject to greater price volatility. The complaint alleges that Richardson negligently made misrepresentations about the fund without verifying that what he told the customers about a guaranteed dividend yield in the corporate bond fund was accurate. The complaint also alleges that Richardson failed to respond to FINRA requests for information. ([FINRA Case #2008016382401](#))

Harry Derrick Winters Jr. (CRD #1844323, Registered Representative, Lewisville, Texas) was named as a respondent in a FINRA complaint alleging that he sold to elderly customers installment plan contracts offered by a non-profit corporation that misrepresented itself to the public as an approved §501(c)(3) charitable organization without prior written notice to, or written approval from, his member firm. The complaint alleges that Winters' solicitation and sale of an installment plan contract to a customer was made outside the scope of his relationship with his member firm, and he received \$20,130.99 in compensation without providing written notice to his firm. The complaint also alleges that after providing oral notification of his participation in the sale of installment plan contracts to his firm, Winters sold contracts to other customers for which he did not receive commission payments. The

complaint further alleges that Winters failed to confirm that the corporation had been approved by the U.S. Internal Revenue Service (IRS) as a tax-exempt non-profit organization, and if he had done so, would have learned that the application for status as a tax-exempt organization was pending and that the purported tax deduction was not available during the pendency. In addition, the complaint alleges that Winters failed to obtain information concerning the availability of a tax deduction to investors under §501(c)(3), and if he had done so, would have learned that the touted tax deduction would not be available to customers until the application for tax-exempt status was approved, which it was not at the time of the his referenced sales. Moreover, the complaint alleges that Winters failed to determine the manner in which his customers' funds would be invested and the identity of the person(s) or entities responsible for the management of such funds; if he had done so, he would have learned that the funds were subject to market risk. Furthermore, the complaint alleges that Winters failed to conduct adequate research, on the Internet or otherwise, to learn of a cease and desist order a state issued against the corporation. The complaint also alleges that Winters' misrepresentations were material, as a reasonable investor would consider the corporation's tax-exempt status and resulting tax benefits to be significant. The complaint further alleges that the organization's brochure, flier and solicitation documents are considered advertisements under NASD Rule 2210(a)(1) and (2) and lacked disclosure, were oversimplified and misleading, and failed to present a fair and balanced view of the product; Winters did not present the brochure and solicitation documents to a registered firm principal for review and approval prior to showing them to customers. ([FINRA Case #2009019042401](#))

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.)

Equifinancial LLC (CRD #136708)
Miami, Florida
(April 7, 2011)

MSA Securities, LLC (CRD #150557)
Santa Monica, California
(April 7, 2011)

Oleet Securities, LLC (CRD #146895)
Burlington, Vermont
(April 7, 2011 – May 13, 2011)

Potomac Securities, LLC (CRD #144443)
Ashburn, Virginia
(April 7, 2011)

Prestige Financial Center, Inc. (CRD #30407)
New York, New York
(April 5, 2011)

Private Company Market Place, Inc. (CRD #143045)
New York, New York
(April 21, 2011)

Resourcive Capital, LLC (CRD #145504)
Poway, California
(April 7, 2011)

Structured Capital Resources Corporation (CRD #120426)
Rockwall, Texas
(April 7, 2011)

The Street, Inc. (CRD #120682)
Arlington, Texas
(April 7, 2011)

The Transportation Group (Securities) Limited (CRD #24329)
New York, New York
(April 21, 2011 – April 29, 2011)

YSC Global Securities, Inc. (CRD #36992)
New York, New York
(April 21, 2011)

Firm Suspended for Failure to Pay Outstanding 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.)

Pinnacle Financial Group (CRD #131674)
Orlando, Florida
(April 4, 2011)

Firm Suspended for Failure to Pay Arbitration Awards Pursuant to FINRA Rule 9554

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

Bluechip Securities, Inc. (CRD #45726)
Houston, Texas
(April 7, 2011)
FINRA Arbitration Case #09-02448

Firm Suspended for Failure to meet the Eligibility or Qualification Standards or Prerequisites for Access to Services Pursuant to FINRA Rule 9555

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

Intermountain Financial Services, Inc. (CRD #15386)
Heber City, Utah
(April 18, 2011)
FINRA Case #2010024785601/EQS100001

Individuals Barred for Failure to Provide Information or Keep Information Current Pursuant to FINRA Rule 9552(h)

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

Judy Davis Bass (CRD #1165415)
Kenly, North Carolina
(April 4, 2011)
FINRA Case #2010022128001

Christopher Robert Cushman (CRD #5564560)
Corona Del Mar, California
(April 4, 2011)
FINRA Case #2010022715602

Louis John D'Arpa (CRD #5639756)
Staten Island, New York
(April 28, 2011)
FINRA Case #2010024421801

David August Desrochers (CRD #2331201)
Redding, California
(April 1, 2011)
FINRA Case #2010023818901

Sherri Lynn Dodge (CRD #5263859)
Scranton, Pennsylvania
(April 28, 2011)
FINRA Case #2010024697301

Denise Lynn Gizankis
Erie, Pennsylvania
(December 30, 2010 – April 5, 2011)
FINRA Case #2010021840401

Darren Raymar Johnson (CRD #5691261)
New York, New York
(April 25, 2011)
FINRA Case #2009018846501

Jo-Anne Marie Lombardo (CRD #4743113)
East Taunton, Massachusetts
(April 29, 2011)
FINRA Case #2009019693201

Brian Kyle Napierski (CRD #4677478)
Aliquippa, Pennsylvania
(April 4, 2011)
FINRA Case #2010023496201

Thomas Preston Osborn (CRD #353710)
Lexington, Kentucky
(November 29, 2010 – April 5, 2011)
FINRA Case #2010021961201

William Brown Park (CRD #2073037)
Houston, Texas
(April 25, 2011)
FINRA Case #2010020851101

Ted Alex Poulos (CRD #4614908)
Pittsburgh, Pennsylvania
(April 1, 2011)
FINRA Case #2010021434701

Theodore Aloysius Schuman (CRD #415921)
Billings, Montana
(April 1, 2011)
FINRA Case #2010022161501

Robert Keith Storey (CRD #5600119)

Manhattan Beach, California
(April 4, 2011)
FINRA Case #2010022715601

Jorge E. Villegas (CRD #5728702)

El Paso, Texas
(April 1, 2011)
FINRA Case #2010023564201

Individual Revoked for Failure to Pay Fines and/or Costs Pursuant to FINRA Rule 8320

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

M. Paul De Vietien (CRD #1121492)

Tampa, Florida
(April 20, 2011)
FINRA Case #2006007544401

Individuals Suspended for Failure to Provide Information or Keep Information Current 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.)

Curtis Alan Boggs (CRD #1824473)

Cincinnati, Ohio
(April 1, 2011)
FINRA Case #2009020014501

William Ernesto Castillo (CRD #5568596)

Key West, Florida
(April 14, 2011)
FINRA Case #2010023338401

Sonya Lynne Combs (CRD #4807201)

Highland, California
(April 18, 2011)
FINRA Case #2010022390101

Marc Stephen Forni (CRD #5485362)

New York, New York
(April 18, 2011)
FINRA Case #2010024718101

Marqui Maurice Ashanti Garrett (CRD #4551343)

Baltimore, Maryland
(April 25, 2011)
FINRA Case #2011026093601

Jacquelyn R. Godbold (CRD #5770580)

Port Jefferson Station, New York
(April 25, 2011)
FINRA Case #2010023153101

Anderson Scott Hall (CRD #2535117)

Jacksonville, Florida
(April 25, 2011)
FINRA Case #2011026099301

Henry Setiadi Hendrawan (CRD #4836317)

San Francisco, California
(April 14, 2011)
FINRA Case #2010022657101

Michael Sibley Horaney (CRD #1988929)

Henderson, Nevada
(February 22, 2011 – April 27, 2011)
FINRA Case #2010021343001

Michael Patrick Kay (CRD #5096906)

Brooklyn, New York
(April 25, 2011)
FINRA Case #2010023948401

Elliot Allen Kravitz (CRD #1459880)
Cincinnati, Ohio
(April 14, 2011)
FINRA Case #2010022141901

Robert Allen Lechman (CRD #1045237)
Oceanside, California
(February 14, 2011 – April 27, 2011)
FINRA Case #2009017670501

Todd Patrick Mauro (CRD #2740168)
Middle Island, New York
(April 14, 2011)
FINRA Case #2010022337101

Ricky Toyohiko Meyer (CRD #4897212)
Aurora, Colorado
(April 14, 2011)
FINRA Case #2010025745101

Steven E. Michaud (CRD #2743493)
N. Providence, Rhode Island
(April 14, 2011)
FINRA Case #2010025452701

Ryan Daniel Qualls (CRD #4631555)
Downers Grove, Illinois
(April 4, 2011)
FINRA Case #2010022724601

Glynn Davis Ryan Jr. (CRD #2516469)
Sierra Vista, Arizona
(April 29, 2011)
FINRA Case #2009020925101

Rameshkumar Chuharmal Sadhwani (CRD #1033135)
Mumbai, India
(January 31, 2011 – April 27, 2011)
FINRA Case #2010024370001

Raymond Alberto Santos (CRD #4264131)
Hollywood, Florida
(April 25, 2011)
FINRA Case #2010023131701

Mitchell Harris Sloane (CRD #2166032)
Brightwaters, New York
(April 14, 2011)
FINRA Case #2010023263801

James Charles Wenzl (CRD #1863795)
Las Vegas, Nevada
(April 14, 2011)
FINRA Case #2010024181001

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.)

Michael Steven Bell (CRD #5277985)
Columbia, South Carolina
(April 1, 2011)
FINRA Arbitration Case #10-03734

Anthony Joseph Carpenter (CRD #4142453)
New Port Richey, Florida
(April 1, 2011)
FINRA Arbitration Case #09-07225

Jonathan Beau Dameron (CRD #5112790)
Midland, Texas
(April 1, 2011)
FINRA Arbitration Case #10-02042

James William Garofalo Jr. (CRD #2135760)
New York, New York
(April 1, 2011)
FINRA Arbitration Case #97-03310

Michael James Gill (CRD #3004584)
Norwalk, Connecticut
(April 12, 2011)
FINRA Arbitration Case #10-03927

Muhammad Akram Khan (CRD #1400089)
Houston, Texas
(April 7, 2011)
FINRA Arbitration Case #09-02448

Allan Marvin Levine (CRD #601366)
Philadelphia, Pennsylvania
(April 1, 2011 – June 6, 2011)
FINRA Arbitration Case #09-01769

Joseph Harold Morrow (CRD #1757425)
Madison, Connecticut
(April 1, 2011)
FINRA Arbitration Case #10-04310

Mark James Nolan (CRD #2767215)
Las Vegas, Nevada
(April 12, 2011)
FINRA Arbitration Case #09-06563

Christian Vieira Quege (CRD #4310744)
New Rochelle, New York
(April 12, 2011)
FINRA Arbitration Case #09-01969

Timothy Burke Ruggiero (CRD #2119642)
Plantation, Florida
(December 17, 2009 – April 6, 2011)
FINRA Arbitration Case #07-03558

Michael J. Schumacher (CRD #415895)
Purchase, New York
(April 11, 2011)
FINRA Arbitration Case #2011026846001/
ARB110019/09-01769

John David Stroud (CRD #4032954)
Auburn, Alabama
(April 12, 2011)
FINRA Arbitration Case #10-04368

John Gary Wirth (CRD #470412)
Hockessin, Delaware
(April 1, 2011)
FINRA Arbitration Case #10-03928

FINRA Hearing Panel Expels AIS Financial, Inc. for Systemic Anti-Money Laundering Violations

A Financial Industry Regulatory Authority (FINRA) hearing panel has expelled AIS Financial, Inc., a broker-dealer based in Westlake Village, CA, for failing to implement and enforce an anti-money laundering (AML) program. AIS disregarded its AML responsibilities by ignoring prominent red flags and blatant suspicious activity for an extended period of time for financial gain.

The hearing panel found that from November 2005 to December 2007, AIS failed to identify, investigate and report suspicious penny stock activity in three instances. Motivated by commissions the firm received from allowing its customers to liquidate billions of shares of penny stocks from numerous accounts, AIS turned a blind eye to the suspicious activity and concealed the activity from regulatory authorities.

In one instance, the hearing panel found that AIS failed to report suspicious activity that occurred in two corporate accounts controlled by a money management firm based in Costa Rica, whose owner had been the subject of significant regulatory actions by the SEC for securities fraud for engaging in an Internet manipulative scheme. The panel found that the firm permitted the two accounts to deposit and liquidate billions of shares of penny stocks of numerous issuers, generating more than \$3 million in sales proceeds for the customers and commissions of more than \$53,000 for the firm.

The hearing panel also found that AIS permitted five accounts, controlled by a customer and his nephew, both of whom had disciplinary histories and criminal indictments for engaging in organized criminal activity and money laundering prior to opening accounts at AIS, to deposit and liquidate penny stocks in their accounts just two months after the SEC had charged them with securities fraud.

In addition, the hearing panel found that AIS permitted approximately 20 customers to deposit and liquidate approximately 65 million shares of low-priced and thinly traded Asia Global Holdings Corp. stock (AAGH). The liquidations generated sales proceeds of approximately \$5.1 million for the customers and commissions of \$243,304 for the firm. The panel found that the red flags on these transactions included suspicious new account forms for the customers, and liquidation activity that coincided with spikes in AAGH's trading volume.

FINRA Fines UBS Financial Services \$2.5 Million; Orders UBS to Pay Restitution of \$8.25 Million for Omissions That Effectively Misled Investors in Sales of Lehman-Issued 100% Principal-Protection Notes

The Financial Industry Regulatory Authority (FINRA) announced that it has fined UBS Financial Services, Inc., \$2.5 million, and required UBS to pay \$8.25 million in restitution for omissions and statements made that effectively misled some investors regarding the “principal protection” feature of 100% Principal-Protection Notes (PPNs) Lehman Brothers Holdings Inc. issued prior to its September 2008 bankruptcy filing.

PPNs are fixed-income security structured products with a bond and an option component that promise a minimum return equal to the investor’s initial investment.

From March to June 2008 as the credit crisis worsened, UBS advertised and some UBS financial advisors described the structured notes as principal-protected investments and failed to emphasize they were unsecured obligations of Lehman Brothers, which eventually filed for bankruptcy in September 2008.

FINRA found that UBS:

- ▶ failed to emphasize adequately to some investors that the principal protection feature of the Lehman-issued PPNS was subject to issuer credit risk;
- ▶ did not properly advise UBS financial advisors of the potential effect of the widening of credit default swap spreads on Lehman’s financial strength, or provide them with proper guidance on the use of that information with clients;
- ▶ failed to establish an adequate supervisory system for the sale of the Lehman-issued PPNS, and failed to provide sufficient training and written supervisory policies and procedures;
- ▶ did not adequately analyze the suitability of sales of the Lehman-issued PPNS to certain UBS customers; and
- ▶ created and used advertising materials that had the effect of misleading some customers about specific characteristics of PPNS.

Brad Bennett, FINRA Executive Vice President and Chief of Enforcement, said, “This matter underscores a firm’s need to be clear and comprehensive in disclosing risks of the structured products it sells to retail investors. In cases, UBS’ financial advisors did not even understand the complex products they were selling, and as a result, they neglected to disclose necessary information to customers about the issuer’s credit risk so investors would understand the magnitude of the potential losses.”

FINRA found that some of UBS’ financial advisors did not understand the product, including the limitations of the “protection” feature. Consequently, certain financial advisors communicated incorrect information to their customers. Also, certain advertising materials

had the effect of misleading customers regarding the characteristics and risks of the PPNs, including the nature, scope and limitations of the 100% Principal-Protection Notes. The materials suggested that a return of principal was guaranteed if customers held the product to maturity; however, UBS did not adequately address the importance that credit risk could result in loss of principal.

UBS's suitability procedures were also lacking. UBS did not have risk profile requirements for certain PPNs; therefore, the PPNs were sold to some investors for whom the product was not suitable, including investors with "moderate" and "conservative" risk profiles. Moreover, these particular investors were more likely to rely on UBS' representations about the "100% principal protection" feature of Lehman PPNs because of their risk averse investment objectives.

In settling this matter, UBS neither admitted nor denied the charges, but consented to the entry of FINRA's findings.

FINRA Fines Santander Securities \$2 Million for Deficiencies in Its Structured Product Business and Unsuitable Reverse Convertible Sales

Firm Reimburses Customers More Than \$7 Million for Reverse Convertible Losses

The Financial Industry Regulatory Authority (FINRA) announced that it has fined Santander Securities of Puerto Rico \$2 million for deficiencies in its structured product business, including unsuitable sales of reverse convertible securities to retail customers, inadequate supervision of sales of structured products, inadequate supervision of accounts funded with loans from its affiliated bank, and other violations related to the offering and sale of structured products. In addition to paying the fine, the firm is required to review its training, supervision and written procedures in the relevant areas. Santander Securities has reimbursed more than \$7 million to its customers for losses that resulted from reverse convertible securities.

Brad Bennett, FINRA Executive Vice President and Chief of Enforcement, said "Santander Securities failed its customers through significant deficiencies in its systems and procedures, which allowed unsuitable recommendations of concentrated positions in risky reverse convertibles—sometimes using funds that the firm helped customers borrow—to proceed without detection or review."

Structured products are securities derived from or based on a single security, a group of securities, an index, a commodity, a debt issuance and/or foreign currency. Structured products may differ on principal protection offered, interest or coupon rates paid, and frequently cap or limit the upside participation in the underlying asset. Reverse

convertibles, which are a type of structured product, are interest bearing notes in which principal repayment is linked to the performance of a reference asset—often a stock, a basket of stock or an index.

Despite Santander Securities' growing sales in structured products, between September 2007 and September 2008, brokers bore the responsibility of evaluating the products without sufficient suitability guidance or required training on structured products. The firm also had no process in place for reviewing or approving any particular structured product prior to offering the product to a customer. Moreover, the firm did not have effective procedures in place to monitor customer accounts for potentially unsuitable purchases of structured products and had no suitability policies governing product concentration. As a result, the firm failed to detect certain accounts with concentrated positions in certain risky structured products, specifically reverse convertibles. This led to unsuitable recommendations of structured products and significant losses by customers.

For example, in November 2007, Santander Securities recommended that a retired couple in their 80s, with a moderate risk tolerance and a long-term growth objective, invest in a single reverse convertible position of over \$100,000, which represented 85 percent of their account value and more than half of their liquid net worth. The investment ultimately resulted in a loss of over \$88,000. In another instance, in November 2007, Santander recommended that a 36-year-old with no investment experience, moderate risk tolerance and a long-term growth objective, invest in a single \$95,000 reverse convertible position. This position represented most of the account value and resulted in a loss of approximately \$80,000. These concentrated positions exposed customers to a risk of loss that greatly exceeded their risk tolerance and were inconsistent with their investment objectives. These customers are among those who the firm has since made whole.

Moreover, some Santander Securities brokers recommended that customers use funds borrowed from the firm's banking affiliate to purchase reverse convertibles, claiming that it would enable the customers to capture the spread between the interest they paid to the bank and the higher coupon rate they received from the reverse convertible. However, these recommendations substantially increased the clients' exposures to risk. Many customers lost money and owed additional money to the bank when the value of the reverse convertible declined and the bank sold the product at a loss. Santander failed to have adequate supervisory procedures in place to monitor customers' accounts pledged as collateral for these loans.

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

FINRA Fines Jefferies \$1.5 Million for Failing to Disclose Additional Compensation Paid and Conflicts in Sale of Auction Rate Securities

Jefferies to Pay \$425,000 to Customers; FINRA Also Fines and Suspends Two Brokers and Files Complaint Against a Third Broker

The Financial Industry Regulatory Authority (FINRA) announced that it has fined Jefferies & Company, Inc. \$1.5 million for failing to disclose additional compensation received and conflicts in connection with the sale of auction rate securities (ARS). FINRA also ordered Jefferies to repay \$425,000 in fees and commissions earned from the sale of ARS to the affected customers. FINRA also took action against the three brokers involved in the sale of these products, sanctioning two Jefferies brokers, Anthony Russo (\$20,000 fine and five business-day suspension) and Robert D’Addario (\$25,000 fine and 10 business-day suspension), and filing a complaint against a third, Richard Morrison, for their role in not disclosing the additional compensation and conflicts.

Russo, D’Addario and Morrison comprised the firm’s Corporate Cash Management (CCM) group that provided investment advice and services, including purchasing and selling ARS, to 40 Jefferies institutional clients.

FINRA found in its settlement, and alleged in the Morrison complaint, that from Aug. 1, 2007, to March 31, 2008, Jefferies—through Russo, D’Addario and Morrison—failed to disclose material facts to a group of eight corporate customers for whom they exercised discretion to purchase and sell ARS. The brokers used their discretion to purchase for these customers new-issue ARS that paid them and the firm additional compensation. By exercising discretion, Jefferies and the brokers were obligated to disclose that they received this additional compensation, and that they could have purchased other comparable or similar ARS with higher yields. In 32 other transactions, they used their discretion to purchase ARS for the customers from other CCM group customers, but failed to disclose the conflict created because they acted as agent for both the buying and selling customer. They also failed to disclose the existence of comparable or similar ARS with higher yields.

Brad Bennett, FINRA Executive Vice President and Chief of Enforcement, said, “In exercising discretion over customers’ accounts, Jefferies was obligated to ensure that its customers were aware of material facts about the transactions. Instead, Jefferies and its brokers failed to disclose the additional compensation they earned in selling new issue ARS to their customers, their role in effecting trades between client accounts, and the existence of comparable or similar ARS with higher yields.”

FINRA also found that Jefferies committed several other violations in connection with its ARS business, including exercising discretion without written authority; failing to deliver official statements in connection with purchases of municipal new issue ARS; using misleading ARS advertising and marketing materials; selling restricted (Rule 144A) ARS

to a customer that was not qualified to buy them; failing to implement an information barrier with a customer; deficiently completing order tickets for ARS trades; and, failing to establish and maintain an adequate supervisory system, including written supervisory procedures, relating to the operation of the CCM group and its preparation and use of advertising and sales material for ARS.

In reaching the settlement, FINRA took into account that in December 2008, Jefferies spent approximately \$68 million in a partial voluntary buyback of ARS held in retail accounts. As part of the settlement announced today, which included findings relating to Jefferies' ARS advertising and inadequate supervisory review of ARS advertising, Jefferies agreed to purchase ARS from additional retail accounts. Also, in July 2008, Jefferies began remitting all trailing commissions received for frozen ARS held in customer accounts directly to its customers on a go-forward basis, and as of October 2010, had remitted in excess of \$868,000.

As part of the settlement, Jefferies also agreed to participate in a special FINRA-administered arbitration program to resolve eligible investor claims for consequential damages.

In concluding this settlement, Jefferies, Russo and D'Addario neither admitted nor denied the charges, but consented to the entry of FINRA's findings. The Morrison complaint is not yet adjudicated. Under FINRA rules, a firm or individual named in a complaint can file a response and request a hearing before a FINRA disciplinary panel. Possible remedies include a fine, censure, suspension or bar from the securities industry; giving up gains associated with the violations; and payment of restitution. The issuance of a disciplinary complaint represents the initiation of a formal proceeding by FINRA 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 the complaint referenced above is unadjudicated, uninterested persons may wish to contact the respondents before drawing any conclusions regarding the allegations in the complaint.

Russo's suspension was in effect from May 2, 2011, through May 6, 2011. D'Addario's suspension was in effect from May 2, 2011, through May 13, 2011.

FINRA Bars Illinois Broker for Insider Trading

The Financial Industry Regulatory Authority (FINRA) announced that a former registered representative, Michael Hendry, has been barred from the securities industry for engaging in insider trading and for failing to respond truthfully to questioning by investigators in FINRA's Office of Fraud Detection and Market Intelligence (OFDMI). Hendry was also fined nearly \$70,000, which represents the unlawful profits he received from the transactions.

Hendry, of Chicago, worked as a divisional vice president of Pacific Select Distributors, Inc. from November 2005 to September 2010. He was barred for buying shares of Boots & Coots, Inc. (WEL) while he was in possession of information, obtained from an insider at WEL, that another company was going to acquire WEL.

On February 25 and 26, and March 11 and 17, 2010, Hendry purchased 73,000 shares of WEL, paying between \$1.73 and \$2.16 per share. On April 9, 2010, the company announced that it had agreed to be acquired by Halliburton for \$3 per share, at a total transaction value of approximately \$204.4 million.

By April 12, 2010, the next trading day, WEL's stock price increased \$0.67, or 25 percent, to \$2.95 per share. Following the announcement of WEL's acquisition, Hendry sold all of his WEL shares for between \$2.94 and \$3 per share, realizing a profit of \$69,955.

FINRA found that Hendry purchased shares of WEL while in possession of material, non-public information about the company's pending acquisition. FINRA also found that Hendry violated FINRA Rule 8210, which requires an individual under investigation to testify truthfully under oath, when he provided untruthful statements to OFDMI investigators, namely, that he had purchased shares of WEL based on his own research of the company and that he did not know anyone currently or formerly employed at WEL.

Cameron K. Funkhouser, Executive Vice President and Head of OFDMI, said, "This case is a great example of FINRA's continuing efforts to identify and seek prosecution of anyone who improperly uses insider information. Equally important, it shows that FINRA will deal aggressively with any individuals who lie to or mislead our investigators."

In settling this matter, Hendry neither admitted nor denied the charges, but consented to the entry of FINRA's findings.