Disciplinary and Other FINRA Actions

Firm Fined, Individual Sanctioned

Fifth Third Securities, Inc. (CRD #628, Cincinnati, Ohio) and Cynthia Lynn Davenport (CRD #2484400, Registered Principal, Norwood, Ohio) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$20,000, \$5,000 of which was jointly and severally with Davenport. Davenport was also suspended from association with any FINRA member in any capacity for two months. Without admitting or denying the findings, the firm and Davenport consented to the described sanctions and to the entry of findings that the firm, acting through Davenport and other individuals, failed to obtain written consent to conduct Web CRD searches pertaining to individuals not seeking registration or assignment with the firm, and falsely certified that written consent had been obtained from the individuals whose CRD records were searched. The findings stated that the firm failed to establish and maintain adequate written procedures to supervise the use of Web CRD, and failed to adequately train and supervise all of the employees who were permitted access to Web CRD to ensure that the requisite written consents were obtained prior to conducting all Web CRD searches.

The suspension is in effect from January 5, 2009, through March 4, 2009. (FINRA Case #2007007333001)

Firms and Individuals Fined

First New York Securities, L.L.C. (CRD #16362, New York, New York), Larry Chachkes (CRD #4132788, Registered Representative, New York, New York) and Joseph Eric Edelman (CRD #2115413, Registered Representative, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm, Chachkes and Edelman were censured; the firm was fined \$170,000; Chachkes was fined \$30,000 and Edelman was fined \$50,000. The firm was also ordered to disgorge \$171,504.44 of unlawful profits and required to revise its written supervisory procedures to achieve compliance with, and prevent violations of, Securities and Exchange Commission (SEC) Rule 105, and to include the supervisory steps to be taken by the responsible person in connection with SEC Rule 105 supervision.

Reported for February 2009

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).



Without admitting or denying the findings, the firm, Chachkes and Edelman consented to the described sanctions and to the entry of findings that the firm, acting through Chachkes, Edelman and others, sold securities short during the five business days before the pricing of public offerings and then engaged in covering transactions with shares from public offerings in violation of SEC Rule 105. The findings stated that the firm's supervisory system failed to provide for adequate and reasonable supervision of the individual representatives' activities, and its supervisory system and written procedures did not provide for supervision reasonably designed to achieve compliance with and prevent violations of SEC Rule 105. The findings also stated that the firm's supervisory system did not include written supervisory procedures providing for a statement of the steps to be taken by the responsible person in connection with SEC Rule 105 supervision. The findings also included that the firm provided inaccurate information in response to a FINRA inquiry, which was caused by its failure to have in place adequate supervisory procedures reasonably designed to ensure that the firm provided responsive information to regulatory inquiries. FINRA found that the firm failed to make and preserve books and records, in conformity with SEC and FINRA rules; order tickets did not reflect the correct price, lacked time stamps or contained inaccurate time stamps. FINRA also found that the firm failed to preserve brokerage order memoranda for a period of not less than three years, the first two in an accessible place. (FINRA Case #2005000796001)

G.C. Andersen Partners Capital, LLC (CRD #44631, New York, New York) and Bruce Neal Orr (CRD #1708096, Registered Principal, St. Augustine, Florida) submitted Letters of Acceptance, Waiver and Consent in which the firm was censured and fined \$65,000. and Orr was censured and fined \$15,000. Without admitting or denying the findings, the firm and Orr consented to the described sanctions and to the entry of findings that the firm, acting through Orr, participated in private placements that were contingent upon receiving a minimum and/or a maximum of investor funds and during the offering periods, the firm failed to transmit investor funds to a bank that had agreed. in writing, to hold such funds in escrow for the investors until the offering contingency was met but, instead, investor funds were held in an account over which Orr had control as escrow agent. The findings stated that, as a result of the firm's control over the funds held in connection with the private placements, it was deemed to be in control of customer funds, which resulted in an increase in its net capital requirement, but the firm was found to be deficient in its net capital while conducting a securities business. The findings also stated that Orr, on the firm's behalf, failed to maintain a Cash/Checks Received and Forwarded Blotter, or an equivalent record to reflect the receipt and/or forwarding of funds as required by SEC Rule 17a-3. The findings also included that the firm did not have an adequate email retention system and therefore failed to adequately preserve emails as required. FINRA found that the firm failed to establish and maintain a supervisory system reasonably designed to ensure compliance with applicable laws, rules and regulations in connection with the private placements conducted by the firm, and the firm failed to retain a written record of the dates upon which reviews and branch office inspections were conducted. (FINRA Cases #2007007256801/#2007007256802)

Firms Fined

Access Securities, Inc. (CRD #22455, Stamford, Connecticut) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$17,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it accepted short sale orders in an equity security from another person, or effected short sales in an equity security for its own account, without documenting compliance with SEC Rule 203(b)(1) of Regulation SHO. The findings stated that the firm failed to report to the NASDAQ Market Center (NMC) the correct symbol indicating whether a transaction was a buy, sell, sell short, sell short exempt or cross for transactions in reportable securities, and failed to report to the NMC the correct symbol indicating whether it executed transactions in reportable securities in a principal or agency capacity. The findings also stated that the firm transmitted reports to the Order Audit Trail System (OATS) that contained inaccurate, incomplete or improperly formatted data by failing to submit the "not held" handling code and submitting an incorrect account type code. The findings also included that the firm executed short sale orders and failed to properly mark the order tickets as short. FINRA found that the firm failed to show the following: the correct order receipt time on brokerage order memoranda, the correct order receipt time and the execution time for each partial execution on a brokerage order memoranda, the correct execution time on brokerage order memoranda, and the correct execution time and the share amount for each partial execution on brokerage order memoranda. (FINRA Case #2006004229801)

Agency Trading Group, Inc. (CRD #108887, Wayzata, Minnesota) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$20,000 and required to revise its written supervisory procedures regarding trade reporting. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed, within 90 seconds after execution, to transmit to the Trade Reporting Facility (TRF) last sale reports of transactions in designated securities that it was required to report to the TRF. 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 NASD rules concerning trade reporting. The findings also stated that the firm failed to report the correct execution time to the NMC in late last sale reports of transactions in eligible securities, and failed to create brokerage order memoranda. (FINRA Case #2007008286101)

AXA Advisors, LLC (CRD #6627, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$350,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it did not adequately retain and archive back-up tapes, permitted representatives to change their desktop computer settings to stop outgoing emails from being retained automatically, and did not prevent representatives from deleting emails or moving incoming emails to their desktops prior to daily backups so that emails would not be retained automatically. The findings stated that the firm's email system overwrote email back-up tapes that contained emails employees sent or

received every three or four weeks. The findings also stated that the firm permitted representatives to use, or failed to prevent them from being able to use, public instant messaging and other means of electronic communications without retaining the communications. The findings also included that the firm implemented a new email retention system, but the system malfunctioned and the firm did not have adequate systems and procedures in place to detect and prevent the malfunctions. FINRA found that the deficiencies did not result in the firm's failure to produce emails that were material to any regulatory investigation or legal proceeding. (FINRA Case #EAF0401030001)

Cambria Capital, LLC (CRD #133760, Salt Lake City, Utah) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$40,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it conducted sales of unregistered securities that were not exempt from registration. The findings stated that the firm failed to establish a supervisory system or establish, maintain and enforce written supervisory procedures reasonably designed to achieve compliance with Section 5 of the Securities Act of 1933 to detect or prevent the sale of securities that were neither registered. exempt from registration by the firm or its representatives or to determine that securities received into customer accounts could be sold without restriction. The findings also stated that the firm failed to fully implement its customer identification program in connection with new non-individual customer accounts by failing to obtain complete information to verify the identity of the accounts. The findings also included that the firm's independent testing of its Anti-Money Laundering (AML) program for compliance did not comply with NASD Rule 3011 because the tester did not qualify as independent at the time it was conducted. FINRA found that the firm failed to properly investigate information received from its clearing firm identifying customers opening new accounts that had securities disciplinary histories and/or other characteristics warranting review. FINRA also found that the firm failed to enforce its Suspicious Activity Report (SAR) procedures, in that it failed to file SARs in connection with questionable activities in customer accounts involving \$5,000 or more, although activities appeared to lack a lawful purpose and the firm was not aware of any reasonable explanation for the transactions. (FINRA Case #2007007402901)

Commonwealth Church Finance, Inc. dba Charter Financial Services (CRD #11768, McDonough, Georgia) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000, \$5,000 of which was jointly and severally. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it conducted a securities business while failing to maintain its required minimum capital. The findings stated that the firm maintained inaccurate books and records that did not reflect accrued liabilities. (FINRA Case #2007011288401)

David A. Noyes & Company (CRD #205, Chicago, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$22,500 and required to revise its supervisory system regarding the misuse of material, nonpublic information by the firm or any person associated with it; maintaining separation between its sales and investment banking departments to prevent communication of material, non-public information and establishing "Grey List" and "Restricted List" procedures. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to enforce written supervisory procedures, in that it failed to maintain separation between its sales and investment banking departments to prevent communication of material, non-public information concerning investment activity to anyone outside the investment banking department without the prior approval of designated managers; to establish "Grey List" procedures to be implemented when the firm is about to obtain, or has obtained, material, non-public information concerning a security; and to establish a "Restricted List" procedure designed to prohibit insider trading violations and appearances of impropriety. The findings stated that the firm failed to enforce written policies and procedures reasonably designed to prevent the misuse of material, non-public information by the firm or any person associated with it. (FINRA Case #2005000219101)

E*Trade Clearing, LLC (CRD #25025, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$12,500 and required to revise its written supervisory procedures regarding Contrary Exercise Advice (CEA) filings. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it accepted CEA filings after the 5:30 p.m. deadline on the business day immediately prior to the contract's expiration date. The findings stated that the firm failed to prepare a memorandum of exercise instructions from a customer showing the receipt time. 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 CEAs. (FINRA Case #2006004395001)

First Southwest Company (CRD #316, Dallas, Texas) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$300,000 and required to submit a buyback offer to purchase at par auction rate securities (ARS) subject to auctions that have not been successful as of mid-September and are not subject to current calls or redemptions (Eligible ARS) from all investors who purchased eligible ARS between May 31, 2006, and February 28, 2008 (Relevant Class). No later than six months from the date of this AWC, the firm shall make its best efforts to provide liquidity to all other investors not in the Relevant Class but who purchased Eligible ARS from the firm. The firm shall reasonably identify investors who sold Eligible ARS below par between February 28, 2008, and September 15, 2008, and pay them the difference between par and the price at which they sold the ARS. The firm shall arbitrate claims for consequential damages filed by investors in the Relevant Class relating to Eligible ARS through a Special Arbitration Program (SAP) and provide FINRA with a report following

the completion of the buyback concerning compliance with the settlement. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it violated FINRA rules relating to communications with the public in its marketing and sale of ARS, and failed to maintain adequate supervisory procedures concerning its sales and marketing activities regarding ARS. The findings stated that the firm used advertising and marketing materials for ARS that were not fair and balanced, and did not provide a sound basis for evaluating the facts in regard to purchases of ARS, in that the materials did not contain adequate disclosure of the risks of ARS, including that ARS auctions could fail, that investments in ARS could become illiquid, and that customers might be unable to access funds invested in ARS for substantial periods of time. The findings also stated that the firm failed to establish and maintain a supervisory system, including written supervisory procedures, reasonably designed to achieve compliance with FINRA rules in the marketing and sale of ARS. The findings also included that the firm failed to provide adequate training to registered representatives regarding the features and characteristics of ARS, specially those effecting liquidity. FINRA found that the firm failed to establish and maintain procedures reasonably designed to ensure that the written materials it used in connection with the marketing and sale of ARS complied with appropriate disclosure standards. (FINRA Case #2008014569701)

Goldman, Sachs & Co. (CRD #361, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$600,000 to be paid jointly to FINRA and the New York Stock Exchange. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed, within 90 seconds after execution, to transmit last sale reports of transactions in eligible securities to NASDAQ, and failed to report last sale reports of transactions in eligible securities to NASDAQ. The findings stated that the firm failed, within 90 seconds after execution, to transmit last sale reports of transactions in NASDAO securities through the NMC or the Trade Reporting and Comparison Service (TRACS), and failed to report last sale reports of transactions in NASDAQ securities to the NMC. The findings also stated that the firm failed to report the correct symbol indicating that a transaction was a short sale for transactions in reportable securities to the NMC. The findings also included that the firm failed to show the time of entry or execution times on brokerage order memoranda, failed to notate a short sale indicator on the order ticket, failed to notate a capacity of agent or principal on order tickets, and was unable to produce order tickets for transactions. FINRA found that the firm did not have in place a system reasonably designed to monitor and review the proprietary dividend yield enhancement transactions of its equity finance group (EFG) to ensure compliance with securities laws, regulations, FINRA rules and the firm's guidelines. FINRA also found that the firm failed to establish procedures reasonably designed to detect potentially improper proprietary yield enhancement transactions executed by the EFG's New York trading desk and thereby failed to adequately supervise its business activities. In addition, FINRA determined that the firm failed to establish written supervisory procedures reasonably designed to achieve compliance with NASD Rules 3110, 5430, 6130 and 6420, and SEC Rules 17a-3 and 17a-4. (FINRA Case #2005000121901)

Goldman, Sachs & Co. (CRD #361, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$17,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report the contra party identifier for inter-dealer transactions effected in municipal securities to the Real-time Transaction Reporting System (RTRS). (FINRA Case #2008012105501)

Investors Capital Corp. (CRD #30613, Lynnfield, Massachusetts) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$12,000 and ordered to pay \$1,558.23, 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, in transactions, it either bought corporate bonds from customers and failed to buy the bonds at a price that was fair, or sold corporate bonds to customers and failed to sell the bonds at a price that was fair, taking into consideration all relevant circumstances, including market conditions with respect to each bond at the time of the transaction, the expense involved and that the firm was entitled to a profit. The findings stated that the firm failed to show the time of entry on brokerage order memoranda. (FINRA Case #2005002246301)

Kern, Suslow Securities, Inc. (CRD #24755, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$22,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to develop and implement a customer identification program. The findings stated that the firm's Checks Received and Forwarded Blotter or an equivalent record was inadequate in that the firm failed to record checks received. The findings also stated that the firm failed to develop and maintain a continuing and current education program for its covered registered persons for one year, in that it failed to develop a written training plan outlining the Firm Element program and failed to maintain records documenting the content and completion of the Firm Element by its covered registered persons. (FINRA Case #2007007314701)

Mesirow Financial, Inc. (CRD #2764, Chicago, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$55,000, ordered to pay \$216, plus interest, in restitution to investors, and required to revise its written supervisory procedures regarding firm personnel registration and supervisory qualifications, best execution, trade reporting, order marking, short sale requirements, quotation requirements, order handling, trading halts, books and records, anti-intimidation and coordination, OATS and Chinese walls. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to register persons acting in a supervisory capacity. The findings stated that the firm failed to contemporaneously or partially execute customer limit orders in exchange-listed securities after it traded each security for its own market-making account at a price that would have satisfied each customer's limit order. The findings also stated that the firm failed to report the correct symbol indicating whether it executed transactions in reportable securities in a principal or agency capacity to the NMC. The findings also included that the firm executed short sale transactions and

failed to report each of the transactions to the NMC with a short sale modifier and transmitted reports to OATS that contained inaccurate, incomplete or improperly formatted data. FINRA found that the firm failed to show the correct execution time on memoranda of securities transactions for the firm; execution time on brokerage order memoranda; and receipt time on memoranda of securities transactions for the firm account executed with a customer other than a broker or dealer. FINRA also found that the firm failed to immediately display customer limit orders in a listed security in its public quotation when each order was at a price that would have improved the firm's bid or offer in the security; or when the order was priced equal to the firm's bid or offer and the national best bid or offer for the security, and the order size represented more than a de minimis change in relation to the size associated with its bid or offer in the security. In addition, FINRA determined that the firm failed to use the ".W" modifier for a riskless principal transaction reported at an average price to the TRF and also overreported the same riskless principal transaction to the TRF by incorrectly separately reporting last sale reports of the individual transactions comprising the average priced report at the transaction prices specific to those disaggregated transactions. Moreover, FINRA found that the firm reported to the OTC Reporting Facility last sale reports of transactions in OTC equity securities it was not required to report. Furthermore, FINRA found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning firm personnel registration and supervisory qualifications, best execution, trade reporting, order marking, short sale requirements, quotation requirements, order handling, trading halts, books and records, anti-intimidation and coordination, OATS and Chinese walls. (FINRA Case #2006004237701)

Meyers Associates, L.P. (CRD #34171, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$60,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to establish and maintain a system to retain for more than 30 days its electronic communications related to the firm's business, including emails firm employees sent or received, and failed to retain a record of supervisory review of those electronic communications for production to FINRA upon request. (FINRA Case #2007007254002)

New Castle Financial Services LLC (CRD #102380, Melville, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to transmit Reportable Order Events (ROEs) for more than a year. (FINRA Case #2006006631301)

Nexcore Capital, Inc. (CRD #31893, San Diego, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$35,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to preserve business-related instant messages its associated persons sent or received, and failed to establish and maintain a supervisory system reasonably designed to achieve compliance with securities laws, regulations and FINRA rules applicable to the preservation of business-related instant

messages. The findings stated that the firm's membership agreement with FINRA precluded it from holding customer securities and, without filing an application for approval of a material change in business operations, the firm held customer securities on numerous dates within an eight-month period. The findings also stated that the firm conducted a securities business without maintaining its required net capital and maintained materially inaccurate computations of its excess net capital in its books and records for several months. (FINRA Case #2007007379601)

Pershing, LLC (CRD #7560, Jersey City, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$30,000 and required to revise its written supervisory procedures regarding SEC Rules 200(g), 203(a), 203(b)(1) and 203(b)(3). Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it had a failed to deliver position at a registered clearing agency in 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, and in some instances, failed to borrow the security or enter in a bona fide arrangement to borrow the security before executing proprietary short sales. 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 SEC Rules 200(g), 203(a), 203(b)(1) and 203(b)(3). The findings also included that the firm, an Intermarket Trading System/ Computer Assisted Execution System (ITS/CAES) market maker, purchased or sold ITS/CAES securities, whether in a principal capacity or as an agent, at a price that was lower than the bid or higher than the offer displayed from an ITS participant exchange or ITS/CAES market maker. (FINRA Case #2005002489301)

Stonehurst Securities, Inc. (CRD #138218, Folsom, California) 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 distributed a mailing referencing private placements offered by the firm that were represented to be exempt from registration pursuant to SEC Rule 506 of Regulation D, which requires compliance with SEC Rule 502 that prohibits general solicitations. The findings stated that because individuals who received the mailing lacked a pre-existing business relationship with the firm; the mailing was considered a general solicitation in contravention of SEC Rule 502 and therefore, the firm's transactions did not qualify for an exemption under SEC Rule 506. The findings also stated that no other exemption was available and the securities were not registered. The findings also included that individuals made investments in the offerings and the transactions constituted the sale of unregistered securities. FINRA found that the firm's supervisory system and its written supervisory procedures addressed private placements but were not reasonably designed to achieve compliance with the registration requirement of Section 5 of the Securities Act of 1933 or the eligibility requirements for Regulation D exemptions. FINRA also found that the system and procedures did not provide adequately for the detection and prevention of general solicitations by firm personnel. (FINRA Case #2007007190601)

WaMu Investments, Inc. (CRD #599, Irvine, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$250,000 and required to submit a buyback offer to purchase at par auction rate securities (ARS) subject to auctions that have not been successful as of mid-September and are not subject to current calls or redemptions (Eligible ARS) from all individual investors and certain entities who purchased eligible ARS from the firm between May 31, 2006, and February 28, 2008 (Relevant Class). Commencing no later than six months from the date of this AWC, the firm shall make its best efforts to provide liquidity to all other investors not in the Relevant Class but who purchased Eligible ARS from the firm. The firm shall reasonably identify investors in the Relevant Class who sold Eligible ARS below par between February 28, 2008, and September 12, 2008, and pay them the difference between par and the price at which the investor sold the ARS. The firm agreed to arbitrate claims for consequential damages filed by investors in the Relevant Class relating to Eligible ARS through a Special Arbitration Program (SAP) and provide FINRA with reports following the completion of the buyback concerning compliance with the settlement.

Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it violated FINRA rules relating to communications with the public in its marketing and sale of ARS, and failed to maintain adequate supervisory procedures concerning its sales and marketing activities regarding ARS. The findings stated that the firm used advertising and marketing materials for ARS that were not fair and balanced and did not provide a sound basis for evaluating the facts in regard to purchases of ARS, in that the materials did not contain adequate disclosure of the risks of ARS, including that ARS auctions could fail, that investments in ARS could become illiquid, and that customers might be unable to access funds invested in ARS for substantial periods of time. The findings also stated that the firm failed to establish and maintain a supervisory system, including written supervisory procedures, reasonably designed to achieve compliance with FINRA rules in the marketing and sale of ARS. The findings also included that the firm failed to provide adequate training to registered representatives regarding the features and characteristics of ARS. FINRA found that the firm failed to establish and maintain procedures reasonably designed to ensure that the written materials it used in connection with the marketing and sale of ARS complied with appropriate disclosure standards. (FINRA Case #2008013057401)

Woodbury Financial Services, Inc. (CRD #421, Oakdale, 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 an adequate supervisory system and failed to implement adequate supervisory procedures to review the suitability of variable life insurance business applications to achieve compliance with federal securities laws, regulations and FINRA rules. (FINRA Case #2006006901101)

Individuals Barred or Suspended

Dale Robert Aldieri (CRD #1230340, Registered Representative, Middletown, Connecticut) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$15,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Aldieri'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, Aldieri consented to the described sanctions and to the entry of findings that he performed certain supervisory functions requiring principal registration without being registered with FINRA in that capacity.

The suspension is in effect from December 15, 2008, through June 14, 2009. **(FINRA Case #2006003806201)**

Gerrod Anderson (CRD #850696, Registered Representative, Fort Worth, Texas) 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 months. The fine must be paid either immediately upon Anderson'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, Anderson consented to the described sanctions and to the entry of findings that he falsified customers' signatures to insurance application-related forms without the customers' knowledge or consent, and submitted the forms to his member firm.

The suspension is in effect from January 5, 2009, through March 4, 2009. **(FINRA Case #2008012782501)**

Ward Byron Anderson (CRD #5640, Registered Representative, Aurora, 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, Anderson consented to the described sanction and to the entry of findings that he misappropriated money from public customers' pension plans. The findings stated that Anderson's company was a third-party administrator for a number of pension plans, and Anderson received monthly checks from one customer and deposited the funds into his company's account, but failed to forward the funds to the company in which the customer's pension plan was invested and, instead, used the funds, which totaled to \$222,700, for his own benefit. The findings also stated that Anderson removed \$250,000 from another customer's pension plan by using signed blank withdrawal/transfer forms to cover up the \$222,700 he had misappropriated from his other customer and used the remaining funds for his own benefit. The findings also included that, following the withdrawal, Anderson created and provided to the second customer falsified statements containing information that would have applied if the \$250,000 had not been withdrawn. FINRA found that Anderson used the remaining blank forms to further withdraw funds totaling \$62,288 from the customer's account for his own benefit. FINRA also found that because of the falsified statements,

Anderson was able to prevent the customer from discovering the misappropriation in excess of \$312,000 for about 14 years. In addition, FINRA determined that Anderson failed to respond to a FINRA request for information and documents and to appear for an on-the-record interview. (FINRA Case #2008013164901)

Iqbal Ashraf (CRD #1158662, Registered Principal, Pasadena, California) submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Ashraf'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, Ashraf consented to the described sanctions and to the entry of findings that he willfully failed to disclose material information on his Uniform Application for Securities Industry Registration or Transfer (Form U4).

The suspension is in effect from January 5, 2009, through July 4, 2009. **(FINRA Case #2007007372701)**

Ching Yang Aul (CRD #4608307, Registered Representative, San Gabriel, California) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Aul created and submitted falsified Letters of Authorization (LOAs) to his member firm that bore forged customer signatures requesting that the firm transfer funds from the customers' accounts to the accounts of people unknown to the customers but known to Aul. The findings stated that Aul's acquaintances transferred the funds to Aul, who used the funds for personal expenses including paying off large gambling debts. The findings also stated that Aul converted more than \$1.5 million of customer funds. The findings also included that Aul failed to respond to FINRA requests for information. (FINRA Case #2007009347901)

Joseph Nicholas Bellavia (CRD #2145440, Registered Representative, Monmouth Beach, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$7,500 and suspended from association with any FINRA member in any capacity for 20 business days. Without admitting or denying the findings, Bellavia consented to the described sanctions and to the entry of findings that he exercised discretion in public customers' accounts without written authorization and without his member firm's acceptance of the accounts as discretionary.

The suspension was in effect from January 5, 2009, through February 2, 2009. **(FINRA Case #2007010762001)**

Dick Eugene Blakeley (CRD #854748, Registered Representative, Mountain View, California) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for 15 business days. Without admitting or denying the findings, Blakeley consented to the described sanctions and to the entry of findings that he exercised discretion in public customers' accounts designated as non-discretionary by his member firm and without the customers' written authorization.

The suspension was in effect from January 5, 2009, through January 26, 2009. **(FINRA Case #2007009361401)**

James Albert Blue (CRD #1511776, Registered Representative, Plattsmouth, Nebraska) 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, Blue consented to the described sanction and to the entry of findings that he completed firm financial documents for customers containing their confidential financial information, which he provided to a third party, without the customers' knowledge, approval or consent, causing his member firm to violate Rule 10 of Regulation S-P. The findings stated that Blue's member firm was unaware of his misconduct and failed to update its initial and annual privacy disclosures in violation of Rules 4 and 5 of Regulation S-P. (FINRA Case #2007007722801)

Ann Jones Bowman (CRD #5118902, Registered Representative, Hickory, North Carolina) 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 year. The fine must be paid either immediately upon Bowman's reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Bowman consented to the described sanctions and to the entry of findings that she accepted cash and checks totaling \$11,078.20 from public customers to purchase fixed annuities and invest in 529 plans. The findings stated that Bowman failed to forward the customers' funds to her member firm and, instead, converted the cash to cashier's checks. The finding stated that Bowman misplaced both the cashiers checks and the checks, thereby improperly using customer funds.

The suspension is in effect from January 5, 2009, through January 4, 2010. (FINRA Case #2008012199201)

Troy Eric Brown (CRD #2145769, Registered Representative, Davenport, Florida), Larry Michael Cole (CRD #4374086, Registered Representative, Windermere, Florida) and Jeffrey David Swanson (CRD #2385161, Registered Representative, Jacksonville Beach, Florida) submitted Letters of Acceptance, Waiver and Consent in which Brown and Cole were fined \$5,000 and suspended from association with any FINRA member in any capacity for 10 business days. Swanson was fined \$5,000 and suspended from association with any FINRA member in any capacity for 30 days. The respective fines must be paid either immediately upon their respective reassociation with a FINRA member firm following the 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, Brown, Cole and Swanson consented to the described sanctions and to the entry of findings that they allowed a subordinate client associate to complete the Firm Element training programs for them by completing the modules and taking the applicable proficiency tests using their user IDs and passwords.

Brown's and Cole's suspensions were in effect from January 5, 2009, through January 16, 2009. Swanson's suspension was in effect from January 5, 2009, through February 3, 2009. (FINRA Cases #2006004155203/#2006004155202/#2006004155201)

Gabriela Frances Burse (CRD #1910360, Registered Principal, Orlando, 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, Burse consented to the described sanction and to the entry of findings that she participated in private securities transactions involving a fraudulent pyramid scheme in the form of investment contracts, without prior written notice to, or written permission from, her member firm. (FINRA Case #2007009262301)

Michael Alvin Callaway (CRD #828720, Registered Representative, Ponte Vedra Beach, 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 either immediately upon Callaway'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, Callaway consented to the described sanctions and to the entry of findings that he allowed a subordinate client associate to complete firm training programs, including Firm Element training, for him by completing the modules and taking the applicable proficiency tests using his User ID and password. The findings stated that Callaway condoned allowing client associates to complete firm training, including Firm Element training, for members of his business unit.

The suspension is in effect from January 5, 2009, through April 4, 2009. **(FINRA Case #2006004155204)**

Kaleen Abdul Cooper (CRD #4471537, Registered Representative, Arlington, Virginia) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Cooper converted \$12,017.51 from customers, without their authorization or consent, by forging their signatures on forms to cause unauthorized redemptions or withdrawals from their mutual funds or variable life insurance accounts, and transferred the funds to his bank account for his own purposes. The findings stated that Cooper failed to respond to FINRA requests to testify at an on-the-record interview. (FINRA Case #2007008636401)

Anita Carol Cordill (CRD #852565, Registered Representative, Dallas, Texas) 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, Cordill consented to the described sanction and to the entry of findings that she failed to respond to FINRA requests for information. (FINRA Case #2007010637101)

Edward Desilver Crary Jr. (CRD #2225349, Registered Principal, Phoenix, Arizona) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Crary failed to appear and testify at a FINRA disciplinary hearing and at on-the-record interviews. **(FINRA Case #2007009702901)**

Matthew D. DeCamp (CRD # 5247443, Registered Representative, Vicksburg, Michigan) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, DeCamp consented to the described sanction and to the entry of findings that he failed to respond fully to FINRA requests for information. (FINRA Case #2007011081201)

Dennis Dean Dorn (CRD #4145635, Registered Representative, Henderson, Nevada) 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 months. The fine must be paid either immediately upon Dorn'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, Dorn consented to the described sanctions and to the entry of findings that he signed customers' names to insurance-related documents in violation of his firm's policy prohibiting registered representatives from signing or initialing documents on customers' behalf, without exception. The findings stated that some customers had authorized Dorn to sign their names, but others had not. The findings also stated that Dorn signed a customer's name to a letter representing that the customer had removed a wire-transfer machine from his business premises so that an insurance company would renew the customer's policy, even though Dorn knew that the machine had not been removed and the customer had not authorized Dorn to sign his name on the letter.

The suspension is in effect from January 5, 2009, through April 4, 2010. **(FINRA Case #2007011414701)**

Israel I. Echi (CRD #5416372, Associated Person, Mount Vernon, New York) was fined \$5,000 and suspended from association with any FINRA member in any capacity for one year for willful failure to disclose information, and was fined \$2,500 and suspended from association with any FINRA member in any capacity for two months for failure to timely respond to requests for information. The suspensions shall run concurrently. The fines shall be payable upon re-entry into the securities industry. The sanctions were based on findings that Echi willfully failed to disclose material information on his Form U4 and failed to timely respond to FINRA requests for information.

The suspensions are in effect from January 5, 2009, through January 4, 2010. **(FINRA Case #2007010774001)**

Randle Wayne Farrar Jr. (CRD #4028776, Registered Representative, Cedar Hill, Texas) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Farrar consented to the described sanction and to the entry of findings that he forged his supervisor's signature on checks made payable to Farrar or to his creditors, and misappropriated \$14,739.03 from his supervisor's business checking account. The findings stated that Farrar refused to provide a signed written statement and supporting documents FINRA requested regarding the circumstances surrounding the termination of his employment by his member firm. (FINRA Case #2008014199301)

John Walter Fisher (CRD #2828203, Registered Representative, Arlington, Texas) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 30 business days. The fine must be paid either immediately upon Fisher'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, Fisher consented to the described sanctions and to the entry of findings that he solicited and accepted a \$48,500 loan from a public customer without seeking or obtaining his member firm's written permission.

The suspension was in effect from December 15, 2008, through January 28, 2009. (FINRA Case #2007009485801)

Eric Andy Fiszer (CRD #4381776, Registered Representative, Poplar Grove, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member in any capacity for 30 days. In light of Fiszer's financial status, no monetary sanctions were imposed. The sanction was based on findings that Fiszer engaged in outside business activities, for compensation, and failed to give prompt written notice to his member firm.

The sanction was in effect from January 5, 2009, through February 3, 2009. **(FINRA Case #2007010577101)**

Daniel Alan Fowler (CRD #3008473, Registered Representative, Snellville, Georgia) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for five business days. Without admitting or denying the findings, Fowler consented to the described sanctions and to the entry of findings that he exercised discretion in public customers' accounts without the customers' prior written authorization and his member firm's acceptance of the accounts as discretionary.

The suspension was in effect from January 5, 2009, through January 9, 2009. **(FINRA Case #2007010750201)**

Zenaida Rita Garcia (CRD #5429943, Associated Person, Nashua, New Hampshire) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Garcia failed to respond to FINRA requests for documents and information. The findings stated that Garcia willfully failed to disclose material information on her Form U4. (FINRA Case #2007010993901)

James Stanley Gossett (CRD #4574668, Registered Representative, Plano, Texas) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Gossett consented to the described sanction and to the entry of findings that he made unsuitable investment recommendations to public customers, in that they were inconsistent with each customer's financial situation, investment objective, circumstances and needs. The findings stated that Gossett, in verbal and written communications with customers, made misleading or unwarranted claims about his

investment strategy, particularly regarding investment risks, and made predictions or projections of the future performance of the strategy without providing a sound basis for evaluating his assertions. The findings also stated that Gossett prepared and distributed to prospective customers sales literature about his investment strategy that failed to include risk disclosures and provided misleading information about past performance; provided incomplete and/or misleading information to customers about the performance of their investments and/or the account balance; and prepared an account statement for a customer in which he did not report all of the customer's account holdings and thus reported an account balance that was greater than actual. The findings also included that Gossett exercised discretion in firm customer accounts without the customers' prior written authorization and his member firm's prior written acceptance.

FINRA found that Gossett enlisted the service of a non-registered individual to solicit investors to open accounts with Gossett, promote Gossett's investment strategy, assist customers with completing application forms and serve as Gossett's primary point of contact. FINRA also found that, as compensation for the services, Gossett agreed to pay the individual half of the commissions he generated from trades in the customers' accounts. In addition, FINRA determined that Gossett opened a securities brokerage account with another FINRA member without providing written notice to his member firm and without advising the other firm of his association with a member firm; failed to disclose the account to his member firm after he opened the account; and failed to provide written notice to his member firm that he was engaged in an outside business activity. FINRA also found that, in response to a request for information, Gossett knowingly provided false and misleading information. (FINRA Case #2007008653501)

Arthur Kevin Gotzmer (CRD #4277144, Registered Representative, Melbourne, Florida) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Gotzmer consented to the described sanction and to the entry of findings that he signed customers' names to account documents without authorization to enroll their accounts in a fee-based program his member firm offered. The findings stated that Gotzmer entered unauthorized trades in customer accounts, and did not have reasonable grounds to believe that trades in the accounts were suitable. The findings also stated that Gotzmer failed to timely respond to FINRA requests for information. (FINRA Case #2007009357801)

Jeffrey David Guckert (CRD #3097226, Registered Representative, South Boston, Massachusetts) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Guckert failed to respond to FINRA requests for information. The findings stated that Guckert promised in an oral agreement to provide a financial service plan to a customer for two years and, instead of complying with the terms of the agreement and forwarding the customer's funds to his member firm's corporate office, Guckert endorsed the check and deposited it in an unknown account. The findings also stated that Guckert provided some financial planning advice to his customer over a short time period, but resigned from his firm without notifying the customer that he would not be providing further services, and failed to return any of the funds paid by the customer for the agreed-upon services. (FINRA Case #2007008174801)

Khaldoun Akram Hejazi (CRD #2550737, Registered Representative, Morrison, 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, Hejazi consented to the described sanction and to the entry of findings that he erroneously deposited \$149,800.00 of funds belonging to a customer into a bank account which he controlled. The findings stated that Hejazi transferred the funds to his personal bank account and applied the funds to his personal use. The findings also stated that the customer had intended for the funds to be deposited into a trust or credit union account in her name. The findings also included that Hejazi later repaid the funds that he had misused. (FINRA Case # 2007011266701)

Amalia Lillian Helton (CRD #4633432, Registered Representative, Wyandotte, Michigan) 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, Helton consented to the described sanction and to the entry of findings that she owed a bank \$533 in overdraft charges and other charges to her checking account; wrote a check from another checking account for \$533, knowing she had inadequate funds in the account and submitted the check to the first bank, but the check was returned for non-sufficient funds. The findings stated that Helton failed to respond to FINRA requests for additional information. (FINRA Case #2007011017001)

Paul Gerard Hitchcock (CRD #2047398, Registered Representative, San Rafael, California) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Hitchcock failed to respond to FINRA requests for information and documents, and to provide on-the-record testimony. (FINRA Case #2007009414901)

Jennifer R. Huelsmann (CRD #4125761, Registered Representative, Avon, Indiana) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Huelsmann obtained blank checks used for the collection and transmittal of insurance customers' premium payments from an account her insurance supervisor maintained, and forged her supervisor's signature on checks totaling \$1,050 made payable to herself. The findings stated that Huelsmann endorsed the checks, cashed them and used the proceeds for some purpose other than the benefit of her supervisor or his customers, without the supervisor's knowledge. The findings also stated that Huelsmann failed to respond to FINRA requests for information. (FINRA Case #2006007057301)

Jeffery David Hunt (CRD #3220610, Registered Representative, Defiance, 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, Hunt consented to the described sanction and to the entry of findings that he failed to disclose an outside business activity to his member firm; and failed to respond to FINRA requests for information. (FINRA Case #2007008946401)

Clifford Michael Jensen (CRD #4362723, Registered Representative, Fort Lauderdale, Florida) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Jensen'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, Jensen consented to the described sanctions and to the entry of findings that he exercised control over a customer's account, and made excessive and unsuitable securities transactions in the account in a manner inconsistent with the customer's objectives, financial situation and needs. The findings stated that Jensen's trading in the account resulted in losses of \$32,000 to the customer and generated gross commissions of \$49,000. The findings also stated that Jensen's trading in the account was excessive and unsuitable based on the volume of transactions and the substantial fees associated with such trading.

The suspension is in effect from January 5, 2009, through April 4, 2009. **(FINRA Case #2007008490101)**

Danny Lynn Kimbrough (CRD #2337326, Registered Representative, Decatur, Alabama) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Kimbrough'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, Kimbrough consented to the described sanctions and to the entry of findings that he borrowed \$10,000 from a public customer and the loan document was re-executed in the loan amounts of \$10,600 and \$7,200. The findings stated that Kimbrough borrowed the funds without his member firms' written pre-approval. The findings also stated that Kimbrough signed a firm annual certification form in which he represented that he understood that borrowing from a customer was prohibited.

The suspension is in effect from December 15, 2008, through March 14, 2009. **(FINRA Case #2007011202001)**

Matthew John King Jr. (CRD #270014, Registered Representative, New Rochelle, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for one year. Without admitting or denying the findings, King consented to the described sanctions and to the entry of findings that he falsified variable annuity policy applications for customers by representing that the customers had signed the applications in the proposed state of issue when they had not, and by representing that the customers had accounts with his member firm for at least six months when they did not. The findings stated that King submitted the falsified applications to his firm, which then submitted the applications to the issuer of the policies.

The suspension is in effect from January 20, 2009, through January 19, 2010. **(FINRA Case #2006003892301)**

Barry Michael Kornfeld (CRD #1490377, Registered Principal, Parkland, Florida) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Kornfeld consented to the described sanction and to the entry of findings that he failed to appear to give sworn testimony in connection with a FINRA investigation. (FINRA Case #2007009594001)

Stephen Charles Langhofer (CRD #302086, Registered Principal, Wichita, Kansas) 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, Langhofer 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 #2008011612601)

Vernon A. Lochtefeld (CRD #1885676, Registered Principal, Duluth, Georgia) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 30 days. The fine must be paid either immediately upon Lochtefeld'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, Lochtefeld consented to the described sanctions and to the entry of findings that he engaged in outside business activities, for compensation, and failed to give prompt written notice to his member firm.

The suspension was in effect from January 5, 2009, through February 3, 2009. **(FINRA Case #2007010964101)**

Fred Luther May III (CRD #3193207, Registered Principal, San Antonio, Texas) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, May consented to the described sanction and to the entry of findings that he misappropriated \$437,000 from a trust account for which an individual at his member firm acted as trustee. The findings stated that May transferred the funds to his own bank account by forging transfer requests with the trustee's signature, without having provided May with authority to sign his name or to effect the transfers. (FINRA Case #2007010954301)

Glenn James Meyer (CRD #2674576, Registered Principal, Mt. Sinai, New York) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Meyer failed to appear for a FINRA on-the-record interview. The findings stated that Meyer participated in a private securities transaction, for compensation, and failed to give prior written notice to, and receive written approval from, his member firm. (FINRA Case #2007009571601)

Norman Vernon Montgomery II (CRD #4693626, Registered Representative, St. Charles, Missouri) submitted an Offer of Settlement in which he was fined \$7,500 and suspended from association with any FINRA member in any capacity for two years. The fine must be paid either immediately upon Montgomery'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, Montgomery consented to the described sanctions and to the entry of findings that he willfully failed to timely amend his Form U4 with material information. The findings stated that Montgomery failed to timely respond to FINRA requests for documents and information.

The suspension is in effect from January 5, 2009, through January 4, 2011. (FINRA Case #2007009882301)

Tamra Renee Morriston (CRD #2778559, Registered Representative, Summersville, West Virginia) 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, Morriston consented to the described sanction and to the entry of findings that she engaged in outside business activities without her member firm's prior written notice. The findings stated that Morriston failed to comply with FINRA requests for information and documents, and failed to appear for a FINRA on-the-record interview. (FINRA Case #2007010598501)

Kenneth Stuart Nierenberg (CRD #1596132, Registered Principal, Central Valley, New York) submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Nierenberg consented to the described sanction and to the entry of findings that, without authorization or consent, he converted elderly public customers' funds totaling \$92,469.22 for his own benefit. The findings also stated that Nierenberg willfully failed to disclose material information on his Form U4. (FINRA Case #2006006630101)

Louis Michael Nolfo (CRD #2439250, Registered Principal, Boca Raton, Florida) submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Nolfo consented to the described sanction and to the entry of findings that, while exercising control over customers' accounts, he recommended securities transactions without having reasonable grounds for believing the transactions were suitable in view of the size and frequency of the transactions, the nature of the account and the customers' financial situation, investment objectives and needs. The findings stated that the effected transactions were excessive, utilized unsuitable margin and generated excessive commissions. The findings stated that Nolfo, in connection with the purchase or sale of securities, directly or indirectly, by the use of the means or instrumentalities of interstate commerce, or of the mails, or any facility of any national securities exchange, knowingly or recklessly: employed devices, schemes or artifices to defraud; made untrue statements of material facts or omitted to state material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading; engaged in acts, practices or courses of business which operated, or would operate, as a fraud or deceit upon any person; or effected transactions in, or induced the purchase or sale of, any security by means of any manipulative, deceptive or other fraudulent device or contrivance. The findings also stated that Nolfo failed to supervise a registered representative who effected excessive securities transactions in a customer's account, using unsuitable levels of margin, in a manner inconsistent with the customer's objectives. (FINRA Case #2005001698202)

Brian Robert Nord (CRD #2759032, Registered Representative, Deer Park, Illinois) 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, Nord consented to the described sanction and to the entry of findings that he loaned to or borrowed from firm customers amounts ranging from \$4,000 to \$500,000, sometimes on more than one occasion, without his member firm's written approval in accordance with the firm's written procedures. The findings stated that Nord engaged in an outside business activity, for compensation, without prompt notice, written or otherwise, to his member firm, and failed to respond to a FINRA request to appear for an on-the-record interview. (FINRA Case #2007007609901)

Jeff Yuejian Pan (CRD #3141317, Registered Principal, Suwanee, Georgia) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 18 months. The fine must be paid either immediately upon Pan's reassociation with a FINRA member firm following his suspension, or prior to the filling of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Pan consented to the described sanctions and to the entry of findings that he completed and submitted to his member firm variable universal life insurance applications for public customers on which he falsified the customers' states of residence in order to circumvent state registration requirements because Pan was not registered in the states in which the customers resided. The findings also stated that Pan provided false financial information on an insurance application in connection with the purchase of a life insurance policy by a corporation he owned in order to obtain approval of the policy.

The suspension is in effect from January 20, 2009, through July 19, 2010. **(FINRA Case #2007010636701)**

Joseph M. Porter (CRD #5183272, Registered Representative, Cleves, 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 six months. The fine must be paid either immediately upon Porter'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, Porter consented to the described sanctions and to the entry of findings that he falsified the signatures of a registered representative and a company's president on account documents, without the knowledge or authorization of the registered representative or the company president.

The suspension is in effect from December 15, 2008, through June 14, 2009. **(FINRA Case #2007011201901)**

Michael James Redmon (CRD #4455900, Registered Representative, El Sobrante, California) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Redmon failed to respond to FINRA requests to provide information and documentation. (FINRA Case #2007008657201)

Daniel Joseph Roberts (CRD #4588649, Registered Representative, Tampa, Florida) 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 100 days. The fine must be paid either immediately upon Roberts' 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, Roberts consented to the described sanctions and to the entry of findings that he borrowed \$10,000 from a public customer without written approval in accordance with his firm's written procedures, and engaged in an outside business activity with the expectation of compensation without prompt notice, written or otherwise, to his member firm.

The suspension is in effect from January 5, 2009, through April 14, 2009. **(FINRA Case #2007008016201)**

Yvonne Yuliene Russell (CRD #1863146, Registered Representative, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$10,000 and suspended from association with any FINRA member in any capacity for 30 business days. Without admitting or denying the findings, Russell consented to the described sanctions and to the entry of findings that she loaned \$150,830 to a firm customer. The findings stated that Russell's member firm had policies prohibiting this activity, and she neither had permission to loan the funds, nor did she make her firm aware of the loans to the customer. The findings also stated that Russell engaged in an outside business activity, for compensation, without providing verbal or prompt written notice to her firm.

The suspension is in effect from January 20, 2009, through March 3, 2009. (FINRA Case #2007010844301)

Leo James Ryan Jr. (CRD #2953421, Registered Representative, Natick, 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 capacity for one year. The fine must be paid either immediately upon Ryan'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, Ryan consented to the described sanctions and to the entry of findings that he signed customer names on various forms relating to transactions they had authorized, without their authorization or consent.

The suspension is in effect from December 15, 2008, through December 14, 2009. (FINRA Case #2007008735401)

Diane Jo Savage (CRD #1006815, Registered Representative, Pittsburgh, Pennsylvania) 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 30 days. The fine must be paid either immediately upon Savage's reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Savage consented to the described sanctions and to

the entry of findings that she altered a subscription agreement by signing a customer's initials on the agreement after the customer had failed to initial one section of the agreement. The findings stated that Savage's firm had both a specific policy prohibiting the alteration of subscription agreements and a more general policy requiring that firm records be truthful and accurate. The findings also stated that Savage acknowledged that she was aware of the firm's policy against alteration of documents and knew it was a violation when she initialed the paperwork on the customer's behalf.

The suspension is in effect from January 20, 2009, through February 18, 2009. **(FINRA Case #2007011172601)**

Michael Frederick Siegel (CRD #1001893, Registered Representative, Beverly Hills, California) was fined \$20,000 and suspended from association with any FINRA member in any capacity for six months for private securities violations, and fined \$10,000 and suspended from association with any FINRA member in any capacity for six months for suitability violations. The suspensions are to be served concurrently. Siegel was also ordered to pay \$400,300 in restitution to public customers. The SEC sustained FINRA's disciplinary action following an appeal of a NAC decision. The sanctions were based on findings that Siegel engaged in private securities transactions without prior written notice to his member firm. The findings stated that Siegel recommended and effected the sale of securities to public customers without reasonable grounds for believing that the recommendations and resultant sales were suitable for the customers.

The U.S. Court of Appeals was petitioned for review, and the sanctions are not in effect pending consideration of the petition. (FINRA Case #C0520020055)

Michael Slusher (CRD #5175006, Registered Representative, Rhinebeck, New York) submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Slusher consented to the described sanction and to the entry of findings that without a bank customer's authorization or consent, he transferred \$4,000 from the customer's account to an account he had opened in a fictitious customer's name, then withdrew \$300 from that account for his own use and benefit. The findings stated that Slusher also failed to respond to FINRA requests for information. (FINRA Case #2007009836601)

Anthony J. Trimboli (CRD #4734730, Registered Representative, Norwalk, Connecticut) 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 12 months. Without admitting or denying the findings, Trimboli consented to the described sanctions and to the entry of findings that he falsified information on a form related to a customer's application for non-variable life and disability insurance to facilitate approval of the application, and did not disclose to the customer that he had falsified the form.

The suspension is in effect from December 15, 2008, through December 14, 2009. **(FINRA Case #2007010575901)**

Charles William Wannen III (CRD #2453110, Registered Representative, Hicksville, New York) submitted an Offer of Settlement in which he was suspended from association with any FINRA member in any capacity for six months. In light of Wannen's financial status, no monetary sanctions were imposed. Without admitting or denying the allegations, Wannen consented to the described sanction and to the entry of findings that he engaged in a pattern of unsuitable and excessive trading in customer accounts, including customers' individual retirement accounts (IRAs). The findings stated that in connection with the accounts, Wannen filed false and inaccurate information on the new account forms for the customers without their knowledge, authorization or consent, causing his member firm's books and records to be false.

The suspension is in effect from January 20, 2009, through July 19, 2009. (FINRA Case #ELI2004035403)

Decision Issued

The Office of Hearing Officers (OHO) issued the following decision, which has been appealed to or called for review by the NAC as of December 31, 2008. The NAC may increase, decrease, modify or reverse the findings and sanctions imposed the decisions. Initial decisions whose time for appeal have not yet expired will be reported in the next FINRA Notices.

Denis William Kraemer Jr. (CRD #2795687, Registered Representative, West Babylon, New York) was fined \$5,000 and suspended from association with any FINRA member in any capacity for nine months. The sanctions were based on findings that Kraemer willfully failed to disclose material information on his Form U4.

This decision has been appealed to the NAC, and the sanctions are not in effect pending consideration of the appeal. **(FINRA Case #2006006192901)**

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.

Bill Q. Chen (CRD #4442892, Registered Representative, Arcadia, California) was named as a respondent in a FINRA complaint alleging that he engaged in unethical conduct when he transferred \$10,000 from a bank customer's account to a third person's account to whom Chen owed money, without the bank customer's knowledge, authorization or consent, in violation of NASD Conduct Rule 2110. The complaint further alleges that Chen reversed the transaction after the bank's operations personnel detected the transaction. (FINRA Case #2007011324501)

Eun Hee Choi (CRD #4464366, Registered Representative, Flushing, New York) was named as a respondent in a FINRA complaint alleging that she converted \$444 given to her by a public customer to pay for the customer's life insurance policy for her personal use, without the customer's knowledge, consent or authorization. **(FINRA Case #2008012158801)**

Thomas Joseph Downs (CRD #4297709, Registered Representative, Pleasantville, New York) was named as a respondent in a FINRA complaint alleging that he effected an unauthorized purchase transaction in a public customer's account. The complaint alleges that Downs failed to respond to FINRA requests for information. (FINRA Case #2007011819401)

James Stephen Eckes (CRD #4158141, Registered Principal, Parrish, Florida) was named as a respondent in a FINRA complaint alleging that he effected an unauthorized securities transaction in a public customer's account. The complaint alleges that Eckes communicated with a customer from an outside email account without his member firm's permission to use this account, and failed to respond to FINRA requests for information and to appear for an on-the-record interview. (FINRA Case #2007008401901)

Steven Jones (CRD #2737948, Registered Principal, Baldwin, New York) was named as a respondent in a FINRA complaint alleging that he engaged in a pattern of trading in customer accounts that was excessive in size and frequency, and was unsuitable in light of the customers' objectives, financial situation and needs, and, in fact, one of the accounts was comprised of IRA funds. The complaint alleges that Jones paid \$1,600 in connection with the settlement of a customer complaint without his member firm's knowledge or consent. (FINRA Case #2006005683901)

Jon Hadland Josephson (CRD #2959512, Registered Representative, Vancouver, Washington) was named as a respondent in a FINRA complaint alleging that he engaged in unauthorized transactions in a relative's variable annuity account by submitting surrender or withdrawal requests through his member firm to the issuer of the variable annuity, which caused the liquidation of \$48,716.81 from the variable annuity account without the relative's knowledge or consent, and in the absence of written or oral authorization to exercise discretion in connection with the variable annuity. The complaint alleges that Josephson received checks payable to his relative in the total amount of \$45,230.15 as a result of the unauthorized partial liquidations of the relative's variable annuity account, negotiated the checks and spent the funds without the relative's knowledge or consent and in a manner not intended or authorized by the relative. The complaint also alleges that Josephson, without his relative's knowledge and consent, affixed, or caused to be affixed, her signature to surrender or withdrawal request forms and as endorsements to checks payable to the relative. The complaint further alleges that Josephson failed to appear for a FINRA on-the-record interview. (FINRA Case #2007008238101)

Firms Expelled for Failure to Pay Fines and/or Costs Pursuant to Rule 8320

Maximum Financial Investment Group, Inc.

Southfield, Michigan (December 5, 2008)

Morgan Peabody, Inc. Sherman Oaks, California (December 22, 2008)

Tripp & Co., Inc. New York, New York (December 5, 2008)

Firm Expelled for Failure to Supply Financial Information Pursuant to Rule 9553

NMP Capital, LLC Kansas City, Missouri (December 11, 2008)

Firm Suspended for Failure to Supply Financial Information Pursuant to Rule 9552

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

Cummins Financial Corporation New York, New York (November 26, 2008)

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

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

Ruben Francisco Augusta Brooklyn, New York (December 11, 2008)

Timothy Behany
Bernardsville, New Jersey
(December 15, 2008)

Charles James Cuozzo Jr. Verona, New Jersey (December 15, 2008)

Stephen Ira Golden Livingston, New Jersey (December 15, 2008)

Kyle Timothy Holland Austin, Texas (December 22, 2008)

Richard Francis Kresge Bayshore, New York (December 15, 2008)

Robert Alan Uhr Boca Raton, Florida (December 15, 2008)

Edward Martin Vangrouw Fairlawn, New Jersey (December 15, 2008)

Individuals Barred Pursuant to Rule 9552(h)

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

Carlton Canty

Detroit, Michigan (December 12, 2008)

Clint Andrew Chick

Bend, Oregon (December 23, 2008)

Eric Richard Fronczek

Naperville, Illinois (December 8, 2008)

William Leo Peckenpaugh

Louisville, Kentucky (December 8, 2008)

Anthony Gerard Russo

Corona, California (December 1, 2008)

Jimmy Eduardo Villarreal

Queens Village, New York (December 3, 2008)

Alan David Weiner

Delray Beach, Florida (December 26, 2008)

Matthew Bryan Wilson

St. Augustine, Florida (December 15, 2008)

Individuals Suspended Pursuant to 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.)

Richard Wendell Babich

San Francisco, California (December 26, 2008)

Elijah Dean Bennett

Tampa, Florida (December 29, 2008)

John Vincent Genna Jr.

Boca Raton, Florida (December 26, 2008)

Stephen Joel Glantz

Bentleyville, Ohio (December 18, 2008)

Joseph William Hughes

Stewartville, Minnesota (December, 8 2008)

Donald Richard Marshall

Sun City West, Arizona (December 1, 2008)

Kevin P. Paris

Dallas, Texas (December 1, 2008)

Jean Y. Shick

Staten Island, New York (December 29, 2008)

Stephen M. Strauss

Calabasas, California (December 1, 2008)

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

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

Peter Earle Brown

San Francisco, California (December 10, 2008)

Paul Jude Casella

Woodbury, New York (December 3, 2008)

Christopher Anthony Corso Sr.

Garland, Texas (December 22, 2008)

Joshua Standish Fortin

Cincinnati, Ohio (December 16, 2008)

Pablo A. Guerrero

New York, New York (December 3, 2008)

William Joseph Hamilton

Miamisburg, Ohio (August 20, 2008 – December 3, 2008)

Holt Earle Harris

Dallas, Texas (December 3, 2008)

Louis John Liberatore Sr.

Bluepoint, New York (December 19, 2008)

Munir Henry Mrkulic

Bloomfield, New Jersey (December 19, 2008)

Jorge Leon Naval

Melville, New York (December 3, 2008)

Arthur Leo Ogbogu

New York, New York (December 3, 2008)

David William Riggleman

Dunedin, Florida (December 22, 2008)

Anthony Charles Russo

Highlands Ranch, Colorado (December 3, 2008)

Stanley I. Szymczyk

Lake Elsimore, California (December 10, 2008)

Scott Ryan Tischler

Richmond, Virginia (December 3, 2008)

E*Trade Units Fined \$1 Million for Inadequate Anti-Money Laundering Program

Firms Failed To Adequately Monitor For Suspicious Trading Activity

The Financial Industry Regulatory Authority (FINRA) has imposed a \$1 million fine against E*Trade Securities, LLC and E*Trade Clearing, LLC, collectively, for failing to establish and implement anti-money laundering (AML) policies and procedures that could reasonably be expected to detect and cause the reporting of suspicious securities transactions.

"Brokerage firms' AML programs must be tailored to their business models," said Susan L. Merrill, Executive Vice President and Chief of Enforcement. "In this case, while E*Trade provides its customers with on-line, self-directed electronic access to the securities markets, its AML program lacked automated electronic systems specifically designed to detect potentially manipulative trading activity in customer accounts."

FINRA requires brokerage firms to establish and implement AML procedures that address a number of areas, including monitoring the trading in customer accounts as well as the flow of money into and out of these accounts. Firms are required to monitor trading in customers' accounts for certain types of suspicious trading activity and file with Department of Treasury's Financial Crimes Enforcement Network (FinCEN) "a report of any suspicious transaction relevant to a possible violation of law or regulation."

FINRA has further instructed each broker/dealer that its AML program must be tailored to its business. A firm needs to consider factors such as its size, location, business activities, the types of accounts it maintains and the types of transactions in which its customers engage. One of the factors that brokerage firms are instructed to consider generally is the technological environment in which the firm operates. On-line firms such as E*Trade specifically have been instructed to "consider conducting computerized surveillance of account activity to detect suspicious transactions and activity."

FINRA found that between Jan.1, 2003, and May 31, 2007, E*Trade did not have an adequate AML program based upon its business model. Because E*Trade did not have separate and distinct monitoring procedures for suspicious trading activity in the absence of money movement, its AML policies and procedures could not reasonably be expected to detect and cause the reporting of suspicious securities transactions. The firm relied on its analysts and other employees to manually monitor for and detect suspicious trading activity without providing them with sufficient automated tools. FINRA determined that this approach to suspicious activity detection was unreasonable given E*Trade's business model.

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