

Disciplinary and Other FINRA Actions

Firm Expelled, Individual Sanctioned

Windham Securities, Inc. (CRD® #20529, New York, New York) and Joshua Constantin (CRD #3221893, Registered Principal, Huntington, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was expelled from FINRA™ membership and Constantin was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, the firm and Constantin consented to the described sanctions and to the entry of findings that they refused to allow FINRA staff to enter the firm's branch office to examine the firm's books and records, and to otherwise conduct an on-site examination. The findings stated that the firm and Constantin failed to respond to FINRA requests for documents and information, and the firm, acting through Constantin, failed to maintain and preserve numerous books and records required pursuant to Securities and Exchange Commission (SEC) Rules 17a-3 and 17a-4, and NASD® Rule 3110. The findings also stated that the firm and Windham have not established the existence of the vast majority of the books and records that the firm is required to make and preserve. **(FINRA Case #2009016318001)**

Firm and Individual Fined

Paulson Investment Company, Inc., (CRD #5670, Portland, Oregon) and Trent Donald Davis (CRD #2137171, Registered Principal, Lake Oswego, Oregon) submitted a Letter of Acceptance, Waiver and Consent in which the firm and Davis were censured, fined \$10,000, jointly and severally, and required to provide certification that the firm has complied with SEC Rule 15c2-4 to FINRA within 10 business days of the closing of all contingent offerings conducted by the firm during the 12 months following acceptance of this AWC. Without admitting or denying the findings, the firm and Davis consented to the described sanctions and to the entry of findings that the firm, acting under Davis' direction and control, participated in private placements of securities. The findings stated that the private placement memoranda for the offerings provided that the offerings were contingent upon receiving subscription agreements for established minimums, and the financing agreements provided that the escrow agent shall promptly return all escrowed funds to the investors should the contingencies not be met. The findings also stated that business bank accounts were established in the issuers' names, into which

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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).

the offering proceeds were deposited, and these business accounts failed to conform to the requirements of SEC Rule 15c2-4 for accounts holding investor funds pending satisfaction of an offering contingency. (FINRA Case #2007007406901)

Firms Fined

American Enterprise Investment Services Inc. (CRD #26506, Minneapolis, Minnesota) 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 customer funds were held in an account that was not a Special Reserve Bank Account, which caused deficiencies in the account that were not attributable to the firm but for which the firm was responsible. The findings also stated that the firm failed to make deposits to, and withdrawals from, its Reserve Bank Account in a timely manner. (FINRA Case #2007007117801)

Bannon, Ohanesian & Lecours, Inc. (CRD #23757, West Hartford, Connecticut) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$25,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to establish, maintain and enforce a reasonably designed supervisory system and written procedures with respect to recommending mutual fund Class C share transactions in qualified accounts. The findings stated that the firm failed to provide for any follow up and review to ensure the recommendations were suitable in view of costs and an anticipated holding period. The findings also stated that the firm lacked procedures reasonably designed to ensure that its representatives made appropriate disclosures to customers regarding the costs and fee structure of mutual fund Class C shares and the anticipated holding period. The findings also included that the firm did not provide for an assessment of the suitability of mutual fund Class C share investments in qualified accounts. (FINRA Case #2007007205801)

Bennett Ross, Inc. (CRD #42850, Dallas, Texas) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it participated in private placement offerings of preferred stock that an affiliate issued, and each offering claimed an exemption from registration under the Securities Act of 1933, when the offerings were not separate and distinct, and were, therefore, subject to integration. The findings stated that none of the offerings that were offered and sold were registered with the SEC. The findings also stated that as a result of the offerings becoming integrated into one offering, the exemption under Regulation D of the Securities Act of 1933 did not apply and the offerings were subject to the securities registration requirements of public offerings. The findings also included that the private placement memoranda for the offerings failed to disclose to customers the existence of the common control of the issuer and the firm. FINRA found that the firm failed to provide or send written disclosure of such common control at or before the completion of the transactions with the customers. (FINRA Case #2008011571101)

BNP Paribas Securities Corp. (CRD #15794, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$70,000 and required to revise its written supervisory procedures regarding equity trade reporting, including reporting the firm's Guaranteed Volume Weighted Average Price (GVWAP) transactions, and trades required to be reported by 6:30 p.m. under NASD Rule 6130(g). Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report transactions in Trade Reporting and Compliance Engine™ (TRACE™)-eligible securities to TRACE within 15 minutes of the execution time. The findings also stated that the firm reported transactions in TRACE-eligible securities to TRACE that it was not required to report. The findings also included that the firm incorrectly designated last sale reports of transactions in designated securities as "ST" to the NASD/NASDAQ Trade Reporting Facility™ (TRF™), based on Exchange for Physical transactions. FINRA found that the firm failed, within 90 seconds after execution, to transmit last sale reports of transactions in designated securities to the TRF. FINRA also found that the firm transmitted last sale reports of transactions in designated securities to the TRF, and failed to designate such last sale reports as reflecting that the trades occurred at a price based on an average weighting or another special pricing formula, and failed to report last sale reports of transactions in designated securities to the TRF. In addition, FINRA determined that the firm failed to report transactions that are assessed a regulatory transaction fee under Section 3 of Schedule A to the FINRA By-Laws by 6:30 p.m. Eastern Time. Moreover, FINRA found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning equity trade reporting, including reporting the firm's GVWAP transactions, and trades required to be reported by 6:30 p.m. under NASD Rule 6130(g). **(FINRA Case #2006006665701)**

BNY Mellon Capital Markets, LLC (CRD #17454, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$250,000 and required to submit to a buyback offer to purchase at par auction rate securities (ARS) subject to auctions that have not been successful as of September 16, 2008, 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 30 days following the date that FINRA accepts this AWC, the firm will provide notice to current customers in the Relevant Class and make its best efforts to provide notice to former customers in the Relevant Class of the settlement terms in the AWC. No later than six months from the date of the 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 certain dates 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 no later than 30 days following the date the buyback offer was made.

Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that advertising and marketing materials that the firm used were not fair and balanced and failed to adequately disclose the risks of investing in ARS, including the risk that ARS auctions could fail, that investments in ARS could become illiquid, and that customers might be unable to obtain access to funds invested in ARS for substantial periods of time. The findings stated that the firm failed to establish and maintain procedures reasonably designed to ensure that it marketed and sold ARS in compliance with federal securities laws and applicable NASD and MSRB rules. The findings also included that the firm failed to maintain procedures reasonably designed to ensure that its registered representatives accurately described ARS to customers during sales presentations, and that representatives provided customers with adequate disclosure of the risks of ARS, including the risk that ARS auctions could fail and that investments in ARS could become illiquid. FINRA found that the firm also failed to provide adequate training to its registered representatives regarding the features and characteristics of ARS, and the differences between ARS and other investments. FINRA also 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 the appropriate disclosure standards of NASD Rules 2210 and 2211, and MSRB Rule G-21. **(FINRA Case #2008013055201)**

Bonddesk Trading LLC (CRD #103787, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$12,000 and required to revise its written supervisory procedures regarding municipal securities transaction reporting to the Real-Time Transaction Reporting System (RTRS). Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report information regarding transactions effected in municipal securities to the RTRS within 15 minutes of time of trade to an RTRS Portal. The findings stated that the firm reported transactions in municipal securities to the RTRS that it was not required to report, and its supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and MSRB rules concerning the reporting of transactions in municipal securities to the RTRS. **(FINRA Case #2007010709501)**

Bosc, Inc. (CRD #17530, Tulsa, Oklahoma) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$80,000, required to pay \$18,402, plus interest, in restitution to investors and to revise its written supervisory procedures regarding municipal bond fair pricing, municipal securities trade reporting and TRACE reporting. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it purchased municipal securities for its own account from a customer and/or sold municipal securities for its own account to a customer at an aggregate price (including any markdown or markup) that was not fair and reasonable, taking into consideration all relevant factors, including the best judgment of the broker, dealer or municipal securities dealer as to the fair market value of the securities at the time of transaction, and of any securities exchanged or traded in connection with the transaction, the expense involved in effecting the

transaction, the fact that the broker, dealer or municipal securities dealer is entitled to a profit and the total dollar amount of the transaction. The findings stated that the firm failed to show correct terms and conditions on municipal securities transaction memoranda for the account of the firm executed with a customer other than a broker or dealer, by failing to include time stamps that showed the date and time of receipt, and failing to include certain terms and conditions (for example, failing to identify the orders as day, limit, market or good-till-cancelled orders). The findings also stated that the firm failed to enforce its written supervisory procedures that prohibited markdowns/markups on zero-coupon municipal securities in excess of four percent of the principal amount invested. The findings also included that the firm failed to report information regarding transactions effected in municipal securities to the RTRS within 15 minutes of trade time to an RTRS Portal.

FINRA found that the firm failed to report the correct time of trade execution for TRACE-eligible securities transactions to TRACE, and failed to report TRACE-eligible securities transactions within 15 minutes of the time of execution. In addition, FINRA determined that the firm failed to show the correct execution time on memoranda of TRACE-eligible transactions for the account of the firm executed with another broker or dealer. Moreover, FINRA found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations, FINRA rules and MSRB rules concerning municipal bond fair pricing, municipal securities trade reporting and TRACE reporting. **(FINRA Case #2006004978501)**

Charles Schwab & Co., Inc. (CRD #5393, San Francisco, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$30,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report information regarding transactions effected in municipal securities to the RTRS within 15 minutes of time of trade to an RTRS Portal. **(FINRA Case #2007010736801)**

Country Club Financial Services, Inc. (CRD #29807, Kansas City, Missouri) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$10,000 and required to revise its written supervisory procedures regarding reporting municipal securities transactions to the RTRS. 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 Correspondent ID to the RTRS in municipal securities transaction reports. 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 MSRB rules concerning reporting municipal securities transactions to the RTRS. **(FINRA Case #2008012090601)**

D.A. Davidson & Co. (CRD #199, Great Falls, Montana) 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 failed to report accurate trading information through the submission of electronic blue sheets in response to FINRA requests for such information. Specifically, the firm failed to include the correct buy, sale or short sale indicator for electronic blue sheets records. **(FINRA Case #2005003313002)**

Finance 500, Inc. (CRD #12981, Irvine, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$15,000. The firm provided evidence that it had already made restitution to customers. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that the firm purchased municipal securities for its own account from a customer and/or sold municipal securities for its own account to a customer at an aggregate price (including any markdown or markup) that was not fair and reasonable, taking into consideration all relevant factors, including the best judgment of the broker, dealer or municipal securities dealer as to the fair market value of the securities at the time of transaction and of any securities exchanged or traded in connection with the transaction, the expense involved in effecting the transaction, the fact that the broker, dealer or municipal securities dealer is entitled to a profit, and the total dollar amount of the transaction. **(FINRA Case #2007007693801)**

Genesis Securities, LLC (CRD #46992, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$21,500 and required to revise its written supervisory procedures regarding trade reporting, sales transactions and the Order Audit Trail System (OATS™). Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report the correct symbol indicating whether it executed transactions in reportable securities in a principal or agency capacity to the TRF, and incorrectly reported transactions with a short sale indicator to the TRF. The findings stated that the firm failed to report the correct symbol indicating whether it executed transactions in a principal or agency capacity to the NASD Alternative Display Facility (ADF®), and incorrectly reported one transaction with a short sale indicator to the ADF. The findings also stated that the firm transmitted inaccurate, incomplete or improperly formatted data to OATS, in that the firm incorrectly submitted limit orders with a limit order display indicator of “N” (No), indicating it had received instructions from the customers that a non-block limit order should not be displayed, when no such instructions had been received. The findings also included that the firm failed to show the cancellation time on brokerage order memoranda and failed to produce customer account information and confirmations. 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 trade reporting, sales transactions and OATS. **(FINRA Case #2007007817801)**

HSBC Securities (USA) Inc. (CRD #19585, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report transactions in TRACE-eligible securities to TRACE within 15 minutes of the execution time. **(FINRA Case #2007011232101)**

Israel A. Englander & Co., Inc. (CRD #33725, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$17,500 and required to revise its written supervisory procedures regarding 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 last sale reports of transactions in Over-the-Counter (OTC™) equity securities to the OTC

Reporting Facility. The findings also stated that the firm failed to designate some of the last sale reports as late. The findings also included that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning trade reporting. **(FINRA Case #2008013099001)**

Itradedirect.com Corp. (CRD #18281, Boca Raton, Florida) 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 OATS. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to transmit required information to OATS on numerous business days. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning OATS. **(FINRA Case #2006006619201)**

JMP Securities LLC (CRD #22208, San Francisco, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$13,500 and required to revise its written supervisory procedures regarding supervisory qualifications, best execution, trade reporting, order marking, OATS, SEC Rule 606, books and records, firm personnel registration, and education of firm personnel about anti-intimidation/coordination. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted reports to OATS that contained inaccurate, incomplete or improperly formatted data, in that the firm submitted unnecessary cancel reports, omitted the ADD Special Handling Code for orders, and submitted incorrect information concerning share volume and route time information for one order. The findings stated that the firm failed to provide written notification disclosing to its customers its correct capacity in transactions. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and/or FINRA rules addressing supervisory qualifications, best execution, trade reporting, order marking, OATS, SEC Rule 606, books and records, firm personnel registration, and education of firm personnel about anti-intimidation/coordination. FINRA found that the firm failed to provide documentary evidence that it performed the supervisory reviews set forth in its written supervisory procedures concerning firm personnel registration and supervisory qualifications, SEC Rule 606, aspects of best execution, anti-intimidation/coordination, aspects of trade reporting, aspects of order marking, OATS, and books and records. **(FINRA Case #2006006338901)**

Ladenburg Thalmann & Co., Inc. (CRD #505, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$200,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to evidence approval of research reports and to properly disclose securities holdings in research reports; failed to, enforce procedures to ensure compliance with FINRA rules requiring approval of research reports, establish and maintain a supervisory system reasonably designed to ensure that disclosure of securities ownership complied with FINRA rules, promulgate and enforce firm policies and procedures concerning review of employee electronic communications with the public that comported with the standards set forth in FINRA rules, and failed to request and receive duplicate statements for employee brokerage

accounts in contravention of its policies and procedures. The findings stated that the firm was unable to evidence requests or approvals of dual employment for employees as required by its policies and procedures, failed to evidence that it conducted annual branch inspections, failed to file an accurate Annual Compliance Report for one year and failed to report customer complaints. The findings also stated that the firm was unable to evidence that it timely filed Uniform Termination Notices for Securities Industry Registration (Forms U5) and that its Compliance Registered Options Principal regularly furnished the required options activity reports to the compliance officer and other senior management. The findings also included that the firm failed to file an accurate annual attestation regarding NYSE Rule 472, and failed to make and keep accurate records of the computation of aggregate indebtedness. **(FINRA Case #2007009479501)**

Marquis Financial Services, Inc. (CRD #20733, Encino, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$13,500. 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 adequate written supervisory procedures relating to the conduct of private placements, and did not maintain required books and records in connection with the private placement offerings in that it failed to maintain all of the subscription agreements that customers who invested in the offerings completed and submitted, and any type of confirmation reflecting these investments. **(FINRA Case #2006005770701)**

MF Global Inc. (CRD #6731, Chicago, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it reported last sale reports of transactions in OTC equity securities to the OTC Reporting Facility that it was not required to report. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning trade reporting to the OTC Reporting Facility. The findings also stated that the firm failed to provide documentary evidence that it performed the supervisory reviews set forth in its written supervisory procedures concerning trade reporting to the OTC Reporting Facility. **(FINRA Case #2007008288901)**

Neuberger Berman, LLC (CRD #2908, 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 OATS reporting. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted Reportable Order Events (ROEs) to OATS that OATS rejected for context or syntax errors, and the firm did not repair any of the rejected ROEs. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning OATS reporting. **(FINRA Case #2007007749401)**

Piper Jaffray & Co. (CRD #665, Minneapolis, Minnesota) 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 accept or decline transactions in

reportable securities in the NASDAQ Market Center within 20 minutes after execution. The findings stated that the firm transmitted ROEs to OATS that OATS rejected for context or syntax errors, and the firm did not repair any of the rejected ROEs. The findings also stated that the firm failed to report information regarding transactions effected in municipal securities to the RTRS within 15 minutes of trade time to an RTRS Portal. **(FINRA Case #2006004109201)**

SMH Capital Inc. (CRD #20580, Houston, Texas) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$65,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to transmit all of its ROEs to OATS for several years. **(FINRA Case #2006006047001)**

Sterne, Agee & Leach, Inc. (CRD #791, Birmingham, Alabama) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$10,000 and required to pay \$2,247.73, plus interest, in restitution to customers. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it purchased or sold corporate bonds from or to customers, and failed to purchase or sell the bonds at prices that were fair, taking into consideration all relevant circumstances, including market conditions with respect to each bond at the time of transaction, the expense involved and that the firm was entitled to a profit. The findings stated that the firm, in transactions for or with customers, failed to use reasonable diligence to ascertain the best inter-dealer market and failed to buy or sell in such market so that the resultant price to the customers was as favorable as possible under prevailing market conditions. **(FINRA Case #2005002336601)**

Stoeveer, Glass & Company Inc. (CRD #7031, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$20,000 and required to revise its written supervisory procedures regarding transaction reporting. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report information regarding transactions effected in municipal securities to the RTRS within 15 minutes of time of trade to an RTRS Portal. 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 MSRB rules concerning transaction reporting. **(FINRA Case #2007007757701)**

Terra Nova Financial, LLC (CRD #37761, Chicago, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$100,000, \$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 failed to comply with SEC Rule 15c-3, in that it failed to complete accurate reserve formula calculations and failed to maintain adequate funds in a Special Reserve Bank Account because it had insufficient amounts on deposit. The findings stated that the firm, acting through a registered Financial and Operations Principal (FINOP), made cash and U.S. Treasury bill withdrawals from the Special Reserve Account while failing to prepare a formula computation. The findings also stated that the firm failed to comply with SEC Rule 17a-3(a), in that it failed to prepare accurate books and records because it prepared inaccurate reserve formula calculations, and failed to comply with SEC Rule

17a-5, in that it filed Financial and Operational Combined Uniform Single (FOCUS™) Reports Part II for several months, which, among other things, failed to report accurate reserve formula calculations. The findings also included that the firm failed to evidence that it had verified identities of new account holders, failed to obtain required certifications for foreign financial accounts, did not have the appropriate identification necessary to meet Customer Identification Program (CIP) requirements for foreign financial institutions, and submitted an incomplete list of foreign bank accounts, and some accounts did not have the appropriate certification.

FINRA found that the firm failed to evidence that it had conducted an expeditious search of its records to determine if it had any accounts for any individual or entity in Financial Crimes Enforcement Network (FINCEN) requests, failed to evidence that it conducted an independent annual test of its Anti-Money Laundering (AML) Compliance Program for one year, and failed to assess the adequacy of its AML program and its degree of compliance with written procedures. FINRA also found that the firm's written AML CIP was deficient in its design and failed to ensure compliance with Bank Secrecy Act provisions, the firm's written procedures and systems failed to address responses to 314(a) requests from FINCEN, failed to maintain documentary evidence that it conducted reviews outlined in its AML CIP necessary for adequate implementation of its procedures for suspicious activity detection and reporting, the firm conducted no specialized or additional training for members of its Treasury Department regarding screening of transactions for AML purposes, reviews conducted by its Treasury Department were done manually rather than by an automated process, and the firm classified accounts based on risk during the account opening process but failed to maintain these classifications going forward for the purpose of due diligence. In addition, FINRA determined that the firm was at a heightened responsibility for AML review because of the large number of securities accounts it serviced and the fact that many accounts were owned by foreign entities or individuals, but failed to conduct an adequate review of transactions for AML purposes. **(FINRA Case #2007007328101)**

TradeStation Securities, Inc. (CRD #39473, Plantation, Florida) 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 establish, maintain and enforce an adequate supervisory system and written procedures to detect statutorily disqualified individuals and to ensure the reporting of disclosable events as required by NASD Rule 3070. The findings stated that the firm did not report to FINRA that it was associated with a person subject to statutory disqualification. **(FINRA Case #2007009466601)**

White Pacific Securities, Inc. (CRD #42505, San Francisco, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted route or combined order/route reports to OATS that the OATS system was unable to link to the corresponding new order transmitted by the destination member firm due to inaccurate, incomplete or improperly formatted data. **(FINRA Case #2006004835701)**

Individuals Barred or Suspended

John Clement Adler Jr. (CRD #4113409, Registered Representative, Morris, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for one year. The fine must be paid either immediately upon Adler'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, Adler consented to the described sanctions and to the entry of findings that he signed customers' signatures to various insurance forms, without the customers' knowledge or consent, on numerous occasions and submitted the documents for processing despite being warned by his member firm about submitting insurance forms without authentic signatures.

The suspension is in effect from May 4, 2009, through May 3, 2010. **(FINRA Case #2007010340901)**

Duane Franklin Anderson (CRD #833934, Registered Principal, Edina, Minnesota) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any principal capacity for one month. Without admitting or denying the findings, Anderson consented to the described sanctions and to the entry of findings that he failed to supervise a registered representative who made numerous unsuitable recommendations in a customer's account. The finding stated that Anderson received adequate tools from his member firm to complete his supervisory duties but failed to detect and prevent the representative's misconduct.

The suspension was in effect from May 4, 2009, through June 3, 2009. **(FINRA Case #2007007991302)**

Sean Aaron Austin (CRD #4594638, Registered Representative, Gays, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for two months. The fine must be paid either immediately upon Austin'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, Austin consented to the described sanctions and to the entry of findings that he purchased shares of stock for his own account and did not have the funds to pay for the stock, in violation of Federal Reserve Board Regulation T. The findings stated that Austin obtained a Regulation T extension to have time to pay for the stock but failed to pay for the stock when the extension expired, causing his member firm to extend him credit in a manner not permissible under Regulation T by making the stock purchase without sufficient funds. The findings also stated that Austin willfully caused his firm to extend him credit in violation of Federal Reserve Board Regulations T and X. The findings also included that Austin sold the stock to a public customer, which he was not permitted to do because he did not have his Series 7 General Securities Representative registration. FINRA found that Austin failed to timely transfer the stock out of his account to the customer after he had sold him the stock.

The suspension is in effect from April 20, 2009, through June 19, 2009. **(FINRA Case #2007008549901)**

Richard M. Berteletti Jr. (CRD #2508308, Registered Representative, Brooklyn, New York) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Berteletti created a false and misleading account summary and provided it to a customer, and failed to respond to FINRA requests for information. The findings stated that Berteletti engaged in securities transactions in a customer's account without the customer's authorization and consent, and without discretionary authority. The findings also stated that Berteletti settled a customer complaint away from his member firm. **(FINRA Case #2007011310001)**

Harold Earl Blondeau (CRD #1439187, Registered Representative, Raleigh, North Carolina) 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, Blondeau consented to the described sanction and to the entry of findings that he failed to cooperate with a FINRA investigation. **(FINRA Case #2007009361201)**

Frank Louis Boccio (CRD #24461, Registered Principal, Howard Beach, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$7,500 and suspended from association with any FINRA member in a FINOP capacity for 15 days. Without admitting or denying the findings, Boccio consented to the described sanctions and to the entry of findings that he caused his member firms to fail to maintain their required net capital and filed inaccurate quarterly and monthly FOCUS Part IIA Reports on the firms' behalf. The findings stated that Boccio failed to take adequate steps to verify and ensure the accuracy of financial information that his member firms provided to him.

The suspension was in effect from May 4, 2009, through May 18, 2009. **(FINRA Case #2008011701201)**

Bruce Robert Byers (CRD #1336318, Registered Representative, Pasadena, California) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Byers consented to the described sanction and to the entry of findings that he repeatedly misrepresented the existence and value of assets and investments to a customer. The findings stated that in order to conceal these misrepresentations, Byers solicited and accepted approximately \$331,120 in loans from other customers, contrary to his member firm's written policies and procedures, and deposited the funds into the customer's account. The findings also stated that Byers did not repay the loans to the customers. **(FINRA Case #2007009430501)**

Wayne Joseph Cosmo (CRD #2657256, Registered Representative, Hawthorne Woods, 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, Cosmo 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 #2007010394701)**

Richard George Dion (CRD #1778663, Registered Representative, Annapolis, Maryland) 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 until he either fully satisfies the terms of a settlement agreement by paying a former member firm \$75,000 and providing satisfactory proof thereof to FINRA, or entering into a superseding settlement agreement with the firm and providing satisfactory proof of the agreement to FINRA. Dion was suspended from association with any FINRA member in any capacity an additional 30 business days upon FINRA's receipt of satisfactory proof of his full satisfaction of the original or superseding settlement agreement. The fine must be paid either immediately upon Dion'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, Dion consented to the described sanctions and to the entry of findings that he failed to comply with the terms of a written settlement agreement he executed in connection with an arbitration case. **(FINRA Case #2007009531501)**

Michael Francis Domson (CRD #4668352, Registered Representative, Tampa, 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, Domson consented to the described sanction and to the entry of findings that he created financial planning agreements for customers, forged the customers' signatures on the agreements and submitted them to his member firm, without the customers' knowledge and consent. The findings stated that Domson paid the initial fees for the plans from his own funds and created the plans to generate sufficient sales of financial plans to enable him to reach a higher level employment status with his firm. **(FINRA Case #2007010681101)**

Steven Effron (CRD #75991, Registered Representative, Boca Raton, 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 four months. Without admitting or denying the findings, Effron consented to the described sanctions and to the entry of findings that while he was registered with a member firm, he engaged in outside business activities and failed to provide prompt written notice by completing and submitting an Outside Business Activity Notification Form. The findings stated that Effron placed variable annuity transactions through his member firm for customers of a representative from another member firm without discussing the transactions with the customers, and after receiving the completed and signed applications, he submitted them to his firm for processing. The findings also stated that Effron received commissions from the transactions and forwarded most of the commissions to the representative without advising his firm of the arrangement.

The suspension is in effect from April 20, 2009, through August 19, 2009. **(FINRA Case #2007009353701)**

Debra Ann Friend (CRD #1739192, Registered Principal, Conneaut, Ohio) 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 five months. Without admitting or denying the findings, Friend consented to the described sanctions

and to the entry of findings that she became aware that her member firm had not processed a public customer's rollover form and fixed and a variable annuity application, so she completed a new application with a more current date. The findings stated that Friend cut out the public customer's signature from the first application and pasted it on a new application, changed the date on the rollover form because the firm had not processed this form, and submitted both documents for processing. The findings also stated that the customer had not authorized the change; Friend made no attempt to contact the customer and engaged in this conduct without the customer's knowledge or consent.

The suspension is in effect from May 4, 2009, through October 3, 2009. **(FINRA Case #2006007045701)**

David Gibson (CRD #4793989, Registered Representative, Brooklyn, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 15 business days. Without admitting or denying the findings, Gibson consented to the described sanctions and to the entry of findings that he engaged in unauthorized transactions in a customer's account without the customer's knowledge, authorization or consent.

The suspension was in effect from May 18, 2009, through June 8, 2009. **(FINRA Case #2007011337201)**

David Christian Haas (CRD #2513907, Registered Principal, East Hanover, New Jersey) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Haas participated in outside business activities without providing his member firm with written notice of these activities. The findings stated that Haas falsified correspondence to cover up these activities and falsely certified to his firm he was not engaged in outside business activities. The findings also stated that Haas failed to appear for a FINRA on-the-record interview. **(FINRA Case #2007009422501)**

Shannon Mitchell Hancock (CRD #2423744, Registered Representative, Irving, 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 five months. The fine must be paid either immediately upon Hancock'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, Hancock consented to the described sanctions and to the entry of findings that he willfully failed to update his Uniform Application for Securities Industry Registration or Transfer (Form U4) to disclose material information.

The suspension is in effect from May 4, 2009, through October 3, 2009. **(FINRA Case #2008011980501)**

Maria Anne Harding (CRD #3021743, Registered Representative, Ft. Myers, Florida) 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 three months. The fine must be paid either immediately upon Harding'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, Harding consented to the described sanctions and to the entry of findings that she falsified a customer's Individual Retirement Account (IRA) opening documents by cutting and pasting the customer's signature from one document onto others without the customer's authorization or knowledge.

The suspension is in effect from May 4, 2009, through August 3, 2009. **(FINRA Case #2008014230201)**

John Michael Holder (CRD #5058722, Registered Representative, Vienna, Georgia) 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, Holder consented to the described sanction and to the entry of findings that he facilitated a customer's purchase of life insurance policies in the name of the customer's deceased son and used a false social security number on the policies. The findings stated that the customer forged her deceased son's signature to execute the policies with Holder's knowledge. **(FINRA Case #2008012531701)**

James Riley Holdman (CRD #3122876, Registered Principal, Baker, Louisiana) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Holdman consented to the described sanction and to the entry of findings that he failed to respond to FINRA requests for information and to appear for on-the-record testimony. **(FINRA Case #2008016403301)**

Desmon Renoral Jackson (CRD #4996253, Registered Representative, Tampa, Florida) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 30 days. The fine must be paid either immediately upon Jackson'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, Jackson consented to the described sanctions and to the entry of findings that he failed to timely amend his Form U4 to disclose material information.

The suspension was in effect from May 4, 2009, through June 2, 2009. **(FINRA Case #2008013359701)**

Stuart Ian Kirschenbaum (CRD #5277313, Associated Person, Brooklyn, New York) submitted an Offer of Settlement in which he was fined \$4,000 and suspended from association with any FINRA member in any capacity for five months. Without admitting or denying the allegations, Kirschenbaum consented to the described sanctions and to the entry of findings that he failed to disclose material information on his member firm's pre-hire consent form and employment application.

The suspension is in effect from May 4, 2009, through October 3, 2009. **(FINRA Case #2007010236601)**

Thomas William Laundrie (CRD #1207021, Registered Principal, Garden City, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$15,000 and suspended from association with any FINRA member in any principal capacity for 45 days. Without admitting or denying the findings, Laundrie consented to the described sanctions and to the entry of findings that he failed to supervise his firm's business consulting business by failing to take any action to determine whether his firm was providing services to stock issuers pursuant to its consulting agreements or was being paid solely for its market making activities. The findings stated that Laundrie failed to take any action to review or monitor his firm's market making in the issuers' securities.

The suspension was in effect from April 20, 2009, through June 3, 2009. **(FINRA Case #2006006784202)**

Ron Yoram Levi (CRD #1163857, Registered Representative, Northbrook, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for five months. The fine must be paid either immediately upon Levi'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, Levi consented to the described sanctions and to the entry of findings that, after obtaining approval from customers to transfer their accounts from his previous member firm to his current member firm, he copied and pasted customer signatures on firm investor's account applications, without the customers knowledge or consent, and forwarded the falsified documents to his member firm as part of the documentation for the processing of the transfer of the accounts.

The suspension is in effect from April 20, 2009, through September 19, 2009. **(FINRA Case #2007010978201)**

Ray Matthew Londo (CRD #1966102, Registered Principal, Lake in the Hills, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 20 business days. Without admitting or denying the findings, Londo consented to the described sanctions and to the entry of findings that he made loans, in the form of casino chips or markers, totaling \$270,000 to a firm customer who was also a close personal friend, contrary to his member firm's written supervisory procedures that prohibited its representatives from lending to, or borrowing from, securities customers unless the customer was a family member, which she was not. The findings stated that Londo's firm was not aware of his loans to the customer.

The suspension was in effect from May 4, 2009, through June 1, 2009. **(FINRA Case #2008012953501)**

John Lloyd McFarlane (CRD #2281555, Registered Principal, Clarks Summit, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for four months. The fine must be paid either immediately upon McFarlane'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, McFarlane consented to the described sanctions and to the entry of findings that he sold equity indexed annuities, for compensation, outside the scope of his employment with his member firm and without providing the firm with prompt written notice of the outside business activity.

The suspension is in effect from May 4, 2009, through September 3, 2009. **(FINRA Case #2008012452301)**

Mario J. Miceli (CRD #4798960, Registered Representative, Scarsdale, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Miceli consented to the described sanction and to the entry of findings that he forged customers' signatures on insurance policy-related documents, without the customers' knowledge, authorization or consent, to expedite the processing of the forms. **(FINRA Case #2007011537001)**

Joe Farnham Moore Jr. (CRD #1330414, Registered Principal, Houston, Texas) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for two years. The fine must be paid either immediately upon Moore'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, Moore consented to the described sanctions and to the entry of findings that a member firm, acting through Moore, failed to establish and maintain a system to supervise a registered representative's activities and to adequately investigate the representative's disciplinary background, as his disciplinary history should have alerted the firm to the fact that the representative required heightened supervision, but the firm failed to establish procedures addressing heightened supervision and failed to implement the representative's heightened supervision. The findings stated that Moore unreasonably delegated some of his supervisory responsibilities to an inexperienced, untrained and unregistered subordinate, and failed to review firm records to learn about the extent of the representative's activities in his customer's accounts. The findings also stated that the firm, acting through Moore, failed to supervise the representative by failing to ensure that new account forms that he submitted contained the required information. The findings also included that Moore falsely represented to the Texas State Securities Board that the representative had not engaged in a securities business in Texas prior to the execution of an undertaking that his firm agreed to and that Moore signed for allowing the representative's registration in Texas.

The suspension is in effect from May 4, 2009, through May 3, 2011. **(FINRA Case #2007008264101)**

Jude E. Offiah (CRD #2231684, Registered Representative, Oklahoma City, Oklahoma) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for one month. The fine must be paid either immediately upon Offiah'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, Offiah consented to the described sanctions and to the entry of findings that he falsified an annuity application and a mutual fund disclosure form by cutting and pasting customers' signatures to the documents.

The suspension is in effect from May 18, 2009, through June 17, 2009. **(FINRA Case #2007008945101)**

Andrew Seafus Prophet (CRD #4016402, Registered Principal, Stratford, Connecticut) 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, Prophet consented to the described sanction and to the entry of findings that he misappropriated \$1,200 from a customer. The findings stated that the customer mistakenly received a \$1,200 check from her variable annuity company and gave the check to Prophet so that he could return it to the company. The findings also stated that instead of returning the check to the company, Prophet, without the customer's authorization, endorsed the check and deposited it into his bank account, using the funds for his own benefit. **(FINRA Case #2008012620201)**

Christopher Napier Pruitt (CRD #3208693, Registered Representative, Bronx, 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 30 business days. Without admitting or denying the findings, Pruitt consented to the described sanctions and to the entry of findings that he executed a transaction in a customer's account without the customer's knowledge, authorization and consent. The findings stated that Pruitt exercised discretion in another customer's account without written authorization and without his member firm's acceptance of the account as discretionary.

The suspension is in effect from May 18, 2009, through June 29, 2009. **(FINRA Case #2007008967401)**

Victor Manuel Puig (CRD #5046214, Registered Representative, Ocala, 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 20 business days. The fine must be paid either immediately upon Puig'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, Puig consented to the described sanctions and to the entry of findings that he engaged in business activities outside the scope of his employment relationship with his member firm, without providing notice to his firm.

The suspension was in effect from April 20, 2009, through May 15, 2009. **(FINRA Case #2007008178501)**

Kellye Allen Rainey (CRD #5037769, Registered Representative, Starr, South Carolina) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Rainey failed to respond to a FINRA request to appear for on-the-record testimony. The findings stated that Rainey willfully failed to disclose material information on her Form U4. **(FINRA Case #2007009291201)**

Frances Ann Reams (CRD #1455932, Registered Principal, Vinton, Virginia) 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 three months. The fine must be paid either immediately upon Reams' 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, Reams consented to the described sanctions and to the entry of findings that she altered a customer's option account agreement without the customer's knowledge or authorization so that it would reflect that the account was approved for an additional trading strategy. The findings stated that by altering the agreement without the customer's knowledge or authorization, she caused a business record of her member firm to be inaccurate.

The suspension is in effect from May 18, 2009, through August 17, 2009. **(FINRA Case #2008014738301)**

Benjamin Thomas Ricciardi (CRD #5061598, Registered Representative, Weehawken, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Ricciardi'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, Ricciardi consented to the described sanctions and to the entry of findings that he falsified customers' signatures on documents in order to advance authorized insurance/annuity purchases.

The suspension is in effect from April 20, 2009, through October 19, 2009. **(FINRA Case #2008012696001)**

Thomas Shian (CRD #846547, Registered Representative, Minnetonka, Minnesota) 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 seven months. The fine must be paid either immediately upon Shian'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, Shian consented to the described sanctions and to the entry of findings that he made unsuitable trading recommendations for a customer and did not have reasonable grounds to believe that his recommendations were suitable based on the customer's situation and needs. The findings stated that Shian exercised discretion in the customer's brokerage account without the customer's written authority to use discretion.

The suspension is in effect from April 20, 2009, through November 19, 2009. **(FINRA Case #2007007991301)**

Galen Mark Shoff (CRD #2990948, Registered Representative, Dickson City, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Shoff'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, Shoff consented to the described sanctions and to the entry of findings that he sold equity-indexed annuities for compensation outside the scope of his employment with a member firm without providing the firm prompt written notice of the business activity.

The suspension is in effect from May 4, 2009, through August 3, 2009. **(FINRA Case #2008015323501)**

Eric Scott Skigen (CRD #2543576, Registered Supervisor, Bethesda, Maryland) 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, Skigen consented to the described sanction and to the entry of findings that he created falsified electronic notes of his purported meetings and conversations with a customer after the customer filed an arbitration claim. The findings stated that Skigen provided the falsified notes to outside counsel in the arbitration case, without advising counsel or his member firm that he had falsified and backdated the notes, and misrepresented that the notes had been prepared contemporaneously with the conversations. The findings also stated that Skigen created similar falsified notes for another customer. The findings also included that Skigen provided false testimony during a FINRA on-the-record interview. **(FINRA Case #2007008549101)**

Neal Seth Smalbach (CRD #1459854, Registered Principal, Palm Harbor, 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 six months. The fine must be paid either immediately upon Smalbach'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, Smalbach consented to the described sanctions and to the entry of findings that, while his state registration status was inactive in Florida, he caused securities transactions that he had solicited to be placed through a junior registered representative whom he had hired. The findings stated that Smalbach caused false information regarding the identity of the registered representative of record to be provided to his member firm because he was in fact the representative of record for the securities transactions submitted by the junior representative to the firm for execution.

The suspension is in effect from April 20, 2009, through October 19, 2009. **(FINRA Case #2008013868801)**

Wayne Daniel Thompson (CRD #4574718, Registered Representative, Lilburn, Georgia) 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, Thompson consented to the described sanction and to the entry of findings that he made unauthorized withdrawals from bank customers' accounts by executing general ledger tickets and withdrawal slips totaling \$136,319.31, and converting the funds to his personal use. **(FINRA Case #2008013837701)**

Benedict Patrick Tommasino (CRD #1828742, Registered Supervisor, Kendall Park, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$30,000, suspended from association with any FINRA member in any capacity for 20 months, with a consecutive two-month suspension from association with any FINRA member in any principal capacity. The fine must be paid either immediately upon Tommasino's reassociation with a FINRA member firm following his suspensions, 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, Tommasino consented to the described sanctions and to the entry of findings that he caused his member firm to aid and abet a violation of Section 15(a)(1) of the Securities Exchange Act of 1934 by permitting a person not registered as a broker-dealer, who had been barred from the securities industry, to perform duties that required registration. The findings stated that Tommasino caused his member firm to violate New York Stock Exchange (NYSE) Rule 345(a) by permitting a person who was not registered with, qualified by or acceptable to the Exchange, to regularly perform the duties customarily performed by a securities lending representative. The findings also stated that Tommasino agreed to pay and caused transaction-based compensation to be transmitted to a non-registered person who had been barred from the securities industry, failed to disclose to his firm that he had agreed to pay and caused transaction-based compensation to be transmitted to a non-registered person who had been barred from the securities industry, and failed to disclose to his member firm that he had agreed to pay and caused transaction-based compensation to be transmitted to a finder. The findings also included that Tommasino caused his firm to maintain and preserve inaccurate books and records in violation of Section 17(a) of the Exchange Act and SEC Rules 17a-3 and 17a-4 thereunder, and NASD Rules 2110 and 3110.

The suspension in any capacity is in effect from May 18, 2009, through January 17, 2011. The suspension in any principal capacity is in effect from January 18, 2011, through March 17, 2011. **(FINRA Case #2007011878502)**

Hrant Berge Tosbath (CRD #2147254, Registered Representative, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 30 days. The fine must be paid either immediately upon Tosbath'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, Tosbath consented to the described sanctions and to the entry of findings that he failed to disclose material information on his Form U4.

The suspension is in effect from May 18, 2009, through June 16, 2009. **(FINRA Case #2008012316401)**

Douglas John Toth (CRD #2332079, Registered Representative, Skillman, New Jersey) was suspended from association with any FINRA member in any capacity for one year. The U.S. Court of Appeals denied Toth's petition for review of the SEC decision sustaining the disciplinary sanction imposed by the National Adjudicatory Council (NAC). The sanction was based on findings that Toth willfully caused the filing of a Form U4 that contained a misrepresentation of material fact.

The suspension is in effect from May 18, 2009, through May 17, 2010. **(FINRA Case #E9A2004001901)**

Scott Thomas Valente (CRD #1177354, Registered Representative, Schenectady, 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, Valente consented to the described sanction and to the entry of findings that he engaged in excessive and unsuitable trading in customers' accounts. The findings stated that Valente exercised discretion in the customers' accounts without written authorization from the customers or acceptance by his member firm of the accounts as discretionary. The findings also stated that Valente provided false written account information to customers. **(FINRA Case #2006007370402)**

Randy Brian Weaver (CRD #4344735, Registered Representative, San Diego, California) and Richard Lance Will (CRD #4055291, Registered Representative, Clarkston, Michigan) submitted Letters of Acceptance, Waiver and Consent in which Weaver was suspended from association with any FINRA member in any capacity for nine months and Will was suspended from association with any FINRA member in any capacity for eight months. In light of Weaver's and Will's financial statuses, no monetary sanctions were imposed. Without admitting or denying the findings, Weaver and Will consented to the described sanctions and to the entry of findings that they participated in private securities transactions, for compensation, in the sale of securities issued by another firm and did not provide prior written notice to, or receive prior approval from, their member firm. The findings stated that Weaver and Will incorrectly answered "no" when asked on required annual compliance questionnaires whether they had ever been paid or received a referral or finder's fee from anyone for referring securities clients and/or business.

Weaver's suspension is in effect from April 6, 2009, through January 5, 2010. Will's suspension is in effect from April 6, 2009, through December 5, 2009. **(FINRA Cases #2007008587501 / #2007008587502)**

Mark David Webb (CRD #2434152, Registered Principal, Wyckoff, New Jersey) submitted an Offer of Settlement in which he was fined \$12,500 and suspended from association with any FINRA member in any capacity for 18 months. The fine must be paid either immediately upon Webb'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, Webb consented to the described sanctions and to the entry of findings that he effected the purchase of stocks for an account, for which he was directly or indirectly interested, when he knew that a hedge fund customer who had moments earlier withdrawn an order it placed with Webb for the same stock, intended to purchase the stock elsewhere. The findings stated that Webb provided false information to his member firm that he had executed a trade for a customer order when, in fact, he did not possess a customer order. The findings also stated that Webb attempted to conceal his misconduct by requesting sales traders at an affiliate firm to locate a buyer for stocks he had already purchased for his firm's facilitation account,

and to locate an existing order ticket with a time stamp prior to his purchase of the stock in order to make it appear that the purchase for his firm's facilitation account had been intended for a customer.

The suspension is in effect from May 4, 2009, through November 3, 2010. **(FINRA Case #2007009408801)**

Darren Eugene White (CRD #2945030, Registered Principal, Manhattan Beach, California) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$7,500, suspended from association with any FINRA member in any capacity for one year, and must requalify by exam as a general securities representative (Series 7) and/or equity trader limited representative (Series 55) before becoming associated with any FINRA member firm in these capacities. In light of White's financial status, the fine imposed was \$7,500. The fine must be paid either immediately upon White'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, White consented to the described sanctions and to the entry of findings that he aided and abetted a registered representative's price manipulation of a company's stock and earned \$14,625 in profits from market making and trading commissions.

The suspension is in effect from April 20, 2009, through April 19, 2010. **(FINRA Case #2006006518902)**

Paul Jared Williams (CRD #468120, Registered Representative, Poland, Ohio) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for five business days. The fine must be paid either immediately upon Williams' 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, Williams consented to the described sanctions and to the entry of findings that he engaged in unauthorized transactions in customers' non-discretionary accounts without the customers' written authorization.

The suspension was in effect from May 18, 2009, through May 22, 2009. **(FINRA Case #2008011952601)**

Adrienne Renee Wilkerson (CRD #5395966, Associated Person, Morrisville, North Carolina) submitted an Offer of Settlement in which she was fined \$4,000 and suspended from association with any FINRA member in any capacity for five months. Without admitting or denying the allegations, Wilkerson consented to the described sanctions and to the entry of findings that she failed to disclose material information on her employment application with a member firm.

The suspension is in effect from April 20, 2009, through September 19, 2009. **(FINRA Case #2007010655801)**

Bruce Dudley Workman (CRD #846702, Registered Principal, Medina, Minnesota) submitted an Offer of Settlement in which he was fined \$7,500 and suspended from association with any FINRA member in any capacity for 10 business days. Without

admitting or denying the allegations, Workman consented to the described sanctions and to the entry of findings that he engaged in outside business activities for compensation, outside the scope of his relationship with his member firm, and failed to provide prompt written notice to his firm.

The suspension was in effect from May 18, 2009, through June 1, 2009. **(FINRA Case #2006007106301)**

Yongsheng Xu (CRD #4922006, Registered Representative, West Des Moines, Iowa) 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 Xu'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, Xu consented to the described sanctions and to the entry of findings that he engaged in outside business activities for compensation, outside the scope of his relationship with his member firm, and failed to provide prompt written notice of this compensation to his firm.

The suspension was in effect from April 20, 2009, through June 1, 2009. **(FINRA Case #2007011851801)**

Individual Fined

Terry L. Westlund (CRD #721852, Registered Representative, Overland Park, Kansas) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000. Without admitting or denying the findings Westlund consented to the described sanction and to the entry of findings that he purchased an interest security in a private offering without providing his member firm with written notification that he engaged in a private security transaction, and did not receive written approval from his member firm. **(FINRA Case #2008012075301)**

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.

Hilda Asencio (CRD #4209245, Associated Person, Richmond Hill, New York) was named as a respondent in a FINRA complaint alleging that she withdrew approximately \$335,250 from a customer's variable annuity without the customer's knowledge and consent, and used the funds for her own use and benefit. The complaint alleges that Asencio failed to respond to FINRA requests for information and documents. **(FINRA Case #2008014573101)**

Alex Amner Borukhov (CRD #4389429, Registered Representative, Brooklyn, New York) was named as a respondent in a FINRA complaint alleging that he engaged in excessive and unsuitable trading in a customer's account in light of the customer's financial objectives, financial situation and needs. The complaint alleges that Borukhov failed to timely amend his Form U4 and willfully failed to disclose material information on his Form U4. The complaint also alleges that Borukhov failed to appear for a FINRA on-the-record interview. **(FINRA Case #2008012444301)**

Steven Craig Keifner (CRD #2103759, Registered Representative, Ventura, California) was named as a respondent in a FINRA complaint alleging that he executed unauthorized and unsuitable transactions in a customer's non-discretionary account. The complaint alleges that Keifner caused his member firm's books and records to contain false and misleading information in that his customer's new account documents failed to accurately record the customer's investment objectives, prior investment experience and financial information. The complaint also alleges that Keifner failed to provide information to FINRA and to appear for a FINRA on-the-record interview. **(FINRA Case #2007009444701)**

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

Argosy Capital Securities, Inc.
Alpharetta, Georgia
(April 28, 2009)

Granta Capital Group LLC
New York, New York
(April 7, 2009)

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

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

BIO-IB, Inc.
New York, New York
(April 14, 2009)

Carter Securities, LLC
New York, New York
(April 14, 2009)

Doherty & Company, LLC
Los Angeles, California
(April 14, 2009)

First Annapolis Securities, Inc.
Linthicum, Maryland
(April 14, 2009)

Fox-Davies Capital USA Inc.
London, Great Britain
(April 21, 2009 – May 7, 2009)

Medical Capital Advisors, LLC
Woburn, Massachusetts
(April 14, 2009)

Mortgages Ltd. Securities, LLC
Phoenix, Arizona
(April 14, 2009)

Pacific Ridge Capital, LLC
Newport Beach, California
(April 14, 2009)

PRC Securities, LLC
Washington, DC
(April 14, 2009 – April 22, 2009)

Richave Financial, Inc.
Monterey Park, California
(April 24, 2009)

Seward, Groves, Richard & Wells, Inc.
Tuxedo Park, New York
(April 14, 2009)

Upstream Capital Partners, LP
Dallas, Texas
(April 14, 2009)

Vision Securities Inc.
Port Washington, New York
(April 14, 2009 – May 12, 2009)

WoodRock Securities, L.P.
Houston, Texas
(April 14, 2009 – May 7, 2009)

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

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

Clifford Dominick Devastey

Cincinnati, Ohio
(April 1, 2009)

Ronald Goldfine

Brooklyn, New York
(April 1, 2009)

Kyle Timothy Holland

Austin, Texas
(December 22, 2008 – April 6, 2009)

Brian James Kelly

Severna Park, Maryland
(April 16, 2009)

Individuals Barred Pursuant to FINRA Rule 9552(h)

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

Wanda Latrice Gilmer

Berkeley, Illinois
(April 13, 2009)

Shawn C. Gorrell

Jenks, Oklahoma
(April 17, 2009)

Hantao Mai

College Park, Maryland
(April 20, 2009)

Scott Alan McLaughlin

Zionsville, Indiana
(April 13, 2009)

Philip John Powers

Framingham, Massachusetts
(April 21, 2009)

Susan Marie Yuningner

Lititz, Pennsylvania
(April 20, 2009)

Individuals Suspended Pursuant to FINRA Rule 9552(d)

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

Damon Michael Bryan

Medina, Ohio
(April 24, 2009)

Christopher Alan Duco

Clinton Township, Michigan
(April 24, 2009)

Karla Flores-Ybaceta

Long Beach, California
(April 3, 2009)

Patricia S. McDonald

Brooklyn, New York
(April 13, 2009)

Howard Lee Smithson

Atlanta, Georgia
(April 6, 2009)

Angela Monique Thomas

Springfield, Massachusetts
(April 20, 2009)

Mark Shen-Feng Wu

Hercules, California
(April 20, 2009)

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

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

Bruce Biagio Blatman
Casselberry, Florida
(April 2, 2009)

Steven Joseph Ferchak
Franklin Square, New York
(April 8, 2009)

Peter Anthony Holst
Newport Beach, California
(April 20, 2009)

Jonathan Scott Hunsucker
Irving, Texas
(April 20, 2009)

Louis John Liberatore Sr.
Bluepoint, New York
(December 19, 2008 – April 14, 2009)

Matthew Robert McCabe
Schenectady, New York
(April 2, 2009)

Jaysen Christopher McCleary
Marina del Rey, California
(April 23, 2009)

Timothy Martin McNamara
Boston, Massachusetts
(April 8, 2009 – April 14, 2009)

John Francis Means
Lutherville, Maryland
(April 23, 2009)

Peter Miluk III
Staten Island, New York
(April 8, 2009)

Michael Patrick Molloy
Matawan, New Jersey
(April 29, 2009 – May 1, 2009)

Robert Allen Peck
Wellington, Florida
(April 2, 2009)

Sandra Lee Pope
Ridgefield, Connecticut
(April 16, 2009)

Matthew Bryan Wilson
St. Augustine, Florida
(April 23, 2009)

FINRA Fines Edward Jones \$900,000 for Failing to Timely Deliver Official Statements to Customers in Municipal Bond Sales

The Financial Industry Regulatory Authority™ (FINRA) fined Edward D. Jones & Co., L.P. of St. Louis \$900,000 for its failure to timely deliver official statements to customers who purchased new-issue municipal securities and related supervisory and recordkeeping failures.

With limited exceptions, broker-dealers selling a new-issue municipal securities are required under the rules of the Municipal Securities Rulemaking Board (MSRB)—which are enforced by FINRA—to deliver a copy of the official statement to the customer on or before settlement date. New-issue securities are those sold during the initial distribution of bonds to the public.

“Official statements contain important financial information for investors about the issuing municipality and the bonds they are purchasing,” said Susan L. Merrill, FINRA Executive Vice President and Chief of Enforcement. “This firm was consistently late in delivering those statements even though it was repeatedly on notice about its delivery failures.”

FINRA found that Edward Jones’s late deliveries occurred when the firm was conducting retail transactions but was not a member of the underwriting syndicate for a new issue.

FINRA further found that the firm’s failures from 2002 through 2006 were systemic. During that time period, Edward Jones engaged in approximately 100,000 new-issue municipal bond transactions in which it was not an underwriter. For a significant number of those transactions, the firm was late in delivering official statements to its customers. The firm’s systemic late deliveries had multiple causes, including lack of training for employees, incorrect instructions to employees, limited photocopying capacity and errors by employees of the firm, including trading supervisors.

The late deliveries continued. In September 2008 alone, the firm was late in mailing official statements to customers in over 6,200 transactions, which represented 19 percent of the firm’s municipal bond transactions covered by the applicable MSRB rule.

FINRA further found that Edward Jones’s own internal communications repeatedly referenced that it was not timely delivering official statements. Nevertheless, the firm failed to take reasonable and sufficient steps to comply with its delivery obligations.

FINRA also found that Edward Jones failed to keep required records, did not have written supervisory procedures addressing the requirements for delivery of official statements until May 2006, and that those procedures contained incorrect guidance. As part of the settlement, an officer of Edward Jones will certify that it has adopted and implemented systems and procedures reasonably designed to ensure compliance with MSRB rules, including systems and procedures to provide adequate oversight if third party vendors are utilized.

In settling this matter, Edward Jones neither admitted nor denied the charges, but consented to the entry of FINRA’s findings

FINRA Fines Fifth Third Securities \$1.75 Million for 250 Unsuitable Variable Annuities Transactions

Orders Restitution, Rescission Offers to Affected Customers, Investigation Continues as to Individuals Involved

The Financial Industry Regulatory Authority (FINRA) fined Fifth Third Securities, Inc., (FTS) of Cincinnati, OH, \$1.75 million for a series of violations related to variable annuity sales and exchanges. FINRA found that FTS made 250 unsuitable sales and exchanges to 197 customers through 42 individual brokers. FINRA also found that FTS's supervisory systems and procedures were inadequate for policing the firm's variable annuity sales and exchanges.

FINRA's investigation into the activities of individuals involved in the sale, approval and supervision of the unsuitable VA transactions is continuing.

In addition to the fine, FINRA ordered FTS to pay more than \$260,000 in restitution to 74 customers to compensate them for surrender charges incurred in the unsuitable transactions. The firm must also offer all 197 customers the opportunity to rescind their unsuitable transactions and receive the initial value of their purchase plus interest and any surrender charges required, adjusted for any withdrawals made.

"Variable annuities are complex investments that are designed to be retirement savings vehicles and are meant for the long-term investor," said Susan L. Merrill, FINRA Executive Vice President and Chief of Enforcement. "Firms must be diligent in their efforts to ensure VA sales and exchanges are suitable and the firm's systems and procedures are robust enough to adequately supervise their sales force, particularly in connection with brokers newly acquired from other firms. FTS failed to meet this standard and as a result, their customers—including those who were elderly and needed access to their money—were subjected to needless expenses and long surrender periods."

FINRA found that between January 2004 and December 2006, FTS effected 250 unsuitable VA exchanges or transactions through 42 brokers, who, in many cases, worked in Fifth Third Bank branches. They used lists provided by the bank of customers with maturing CDs and referrals from bank employees to identify new customers—some of them elderly and/or unsophisticated and with conservative investment objectives—to purchase VAs.

One broker had 74 customers enter into 118 unsuitable exchanges shortly after he joined FTS in early 2005. To avoid leaving substantial customer assets at his prior firm, he switched his customers into VAs issued by the same insurance company with the same riders. In recommending these cookie cutter transactions, the broker ignored substantial differences in his customers' ages, incomes, investment objectives and investment sophistication. The customers paid, in aggregate, at least \$260,000 in charges to surrender their old annuities and were locked into essentially identical VAs that were more expensive and had new surrender periods.

The commissions earned on these transactions enabled the broker to win a firm sales contest and he and his supervisor were each awarded a 42" flat screen TV. The settlement announced today requires FTS to reimburse the broker's customers for these surrender charges.

FINRA found that FTS knew the broker was engaging in a mass switch and approved each of the broker's transactions, failing to adequately respond to red flags indicating that the exchanges were unsuitable. The clearest red flag was the broker's "cookie cutter" approach to the transactions—recommending and selling each of his customers the exact same VA with the exact same riders, which should have caused the firm to question whether the broker adequately considered whether the transactions were appropriate for each customer. Moreover, the paperwork submitted by the broker in support of the transactions contained other red flags. The broker filled out all the paperwork (other than the customers' signatures) personally and the paperwork contained numerous inaccuracies.

FINRA also found that 41 other FTS brokers recommended and effected 132 unsuitable VA purchases for 123 customers. These customers used cash from CDs or bank accounts to purchase the same VA and they put their entire investments into the fixed rate sub-account of the VA. Many of these customers were elderly and/or possessed limited financial sophistication, and had conservative investment objectives. FINRA found these identical transactions, in which customers traded liquid assets for a VA with a seven-year surrender period and annual fees, to be unsuitable given the customers' financial situations, needs, and investment objectives.

As part of the settlement, FINRA is requiring the firm to retain an independent consultant to review the adequacy of and recommend modifications to the firm's supervisory system and procedures and training relating to VA transactions.

The firm also violated FINRA registration rules by allowing improperly registered representatives to buy and sell equities and bonds and by allowing at least one Fifth Third Bank employee to maintain his securities license with FTS even though he did not work for FTS and FTS did not pay him. FINRA also found that the firm failed to maintain accurate books and records related to its VA business.

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

FINRA Fines Centaurus Financial \$175,000 for Failure to Protect Confidential Customer Information

Firm Will Provide Free Credit Monitoring to Customers

The Financial Industry Regulatory Authority (FINRA) fined Centaurus Financial, Inc. (CFI), of Orange County, CA, \$175,000 for its failure to protect certain confidential customer information. Centaurus was also ordered to provide notifications to affected customers and their brokers and to offer these customers one year of credit monitoring at no cost.

FINRA found that from April 2006 to July 2007, CFI failed to ensure that it safeguarded confidential customer information. Its improperly configured computer firewall—along with an ineffective username and password on its computer facsimile server—permitted unauthorized persons to access stored images of faxes that included confidential customer information, such as social security numbers, account numbers, dates of birth and other sensitive, personal and confidential data. The firm's failures also permitted an unknown individual to conduct a "phishing" scam. When CFI became aware of the phishing scam, the firm conducted an inadequate investigation and sent a misleading notification letter to approximately 1,400 affected customers and their brokers.

"It is critically important that firms protect confidential customer information and respond appropriately to unauthorized access to their system," said Susan L. Merrill, FINRA Executive Vice President and Chief of Enforcement. "When a firm becomes aware of an unauthorized access, it must conduct an effective review and provide customers with accurate information about that unauthorized access."

On July 15, 2007, CFI's fax server was used by an unauthorized third party to host a phishing scam. Phishing scams are designed to trick computer users into divulging personal information such as usernames, passwords and bank and credit card information. A file simulating a popular Internet auction site was uploaded to CFI's fax server and over a three-day period there were 894 unauthorized logins by 459 unique IP addresses, most of them from recipients of a mass email sent by the perpetrators of the scam.

Following the discovery of the phishing scam, CFI sent a misleading letter to approximately 1,400 customers and their brokers, inaccurately stating that the unauthorized access was limited to one person and that information on the server was not openly available. The letter failed to state that other unauthorized logins had occurred and did not inform the customers that the unauthorized access was made possible by the inadequate firewall and weak username ("Administrator") and password ("password") on its computer fax server.

CFI's conduct violated federal Regulation S-P and FINRA rules.

Under the terms of the settlement, Centaurus has agreed to provide corrected notifications of the unauthorized accesses to all previously notified customers and brokers and to offer these customers one year of free credit monitoring. In addition, CFI will certify to FINRA that its procedures and systems are in compliance with privacy requirements.

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