

# Disciplinary and Other FINRA Actions

## Firms Fined

**Arjent Services, LLC (CRD #131431, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$12,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it conducted a securities business while failing to maintain its required minimum net capital requirement because it improperly recorded intercompany balances and inaccurately reported certain investment banking fee receivables as allowable assets. The findings stated that the firm filed a Financial and Operational Combined Uniform Single (FOCUS™) Reports that inaccurately reported its minimum net capital requirements and net capital. **(FINRA Case #2008011644802)**

**Belle Haven Investments, L.P. (CRD #29278, White Plains, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$32,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report information regarding transactions effected in municipal securities to the Real-time Transaction Reporting System (RTRS) within 15 minutes of the trade time. The findings stated that the firm failed to enforce its written supervisory procedures, which specified that MSRB dealer feedback reports were to be initialed, dated, and any actions taken noted on the report. **(FINRA Case #2006006804901)**

**Cambridge Legacy Securities L.L.C. (CRD #103722, Dallas, Texas)** 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 timely, accurate and complete submissions to 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, on numerous business days, it failed to transmit most of the orders that it was required to transmit to OATS. 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 timely, accurate and complete submissions to OATS. The findings also stated that the firm failed to enforce its written supervisory procedures, which specified that monthly reports would be reviewed and initialed to document its supervisory review to ensure that its clearing firms reported all required information in a complete, timely and accurate manner. **(FINRA Case #2007008926301)**

## Reported for September 2009

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

**Cantor Fitzgerald & Co. (CRD #134, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$140,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it executed listed, non-market-making proprietary short sales using a third-party trading system, and no locates were performed on these transactions prior to execution. The findings stated that the firm had open fail positions in three threshold securities, failed to close the aged threshold fail positions after 13 days, as required under Securities Exchange Act Rule 203(b)(3), and accepted three orders for customer short sales in two of these threshold securities after its fail positions were aged more than 13 consecutive settlement days. The findings also stated that the firm failed to disclose required yield information on customer confirmations for municipal and corporate bond transactions. The findings also included that the firm failed to record time of receipt on the order memoranda for certain municipal and corporate bond transactions. **(FINRA Case #2007007309701)**

**Carr Securities Corporation (CRD #1404, Port Washington, New York)** 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 ensure that its electronic communications were archived to a non-rewriteable format in an adequate time frame, so it failed to timely maintain and preserve copies of internal and external electronic mail communications. The findings stated that the firm failed to establish and maintain a formal system to review, retain, index or store emails that employees sent from their personal email accounts to conduct business. **(FINRA Case #2007007357501)**

**Chardan Capital Markets LLC (CRD #120128, 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 accepted short sale orders in equity securities from another person, or effected short sales in equity securities for its own account without borrowing the security, entering into a bona fide arrangement to borrow the security, or having reasonable grounds to believe that the security could be borrowed so that it could be delivered on the date delivery is due; and documenting compliance with SEC Rule 203(b)(1) of Regulation SHO. The findings stated that the firm executed short sale transactions and failed to report the transactions to the Over-the-Counter Reporting Facility (OTCRF) or the NASD®/NASDAQ Trade Reporting Facility® (NNTRF) with the correct symbol indicating whether transactions were buy, sell, sell short or cross. **(FINRA Case #2007011005501)**

**J.P. Morgan Securities Inc. (CRD #79, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$27,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it submitted inaccurate short interest position reports in NASDAQ securities to NASD (nka FINRA®) and inaccurate short interest position reports to the New York Stock Exchange (NYSE) in securities listed on the exchange. The findings stated that the firm transmitted reports to OATS that contained inaccurate, incomplete or improperly formatted data. **(FINRA Case #2006005905201)**

**JVB Financial Group, LLC (CRD #104412, Boca Raton, 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 report transactions in Trade Reporting and Compliance Engine™ (TRACE™)-eligible securities to TRACE within 15 minutes of execution time. **(FINRA Case #2008013212601)**

**National Securities Corporation (CRD #7569, Seattle, Washington)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$105,500 and required to pay \$15,697.01, plus interest, in restitution to investors. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed, within 90 seconds after execution, to transmit last sale reports of transactions in OTC™ equity securities to the OTCRF and failed to designate some of the reports as late. The findings stated that the firm sold or bought corporate bonds to or from customers and failed to sell or buy the bonds at a price that was fair, taking into consideration all relevant circumstances, including market conditions with respect to each bond at the time of the transaction, the expense involved and that the firm was entitled to a profit. The findings also stated that the firm failed to transmit all of its Reportable Order Events (ROEs) to OATS on numerous business days. The findings also included that the firm failed to show the terms and conditions on brokerage order memoranda; preserve for a period of not less than three years, the first two in an accessible place, a complete and accurate execution blotter; report the correct symbol indicating whether transactions were buy, sell, sell short, or cross for reportable securities transactions to the NNTRF; and whether it executed transactions in reportable securities in a principal or agency capacity.

FINRA found that the firm failed to report last sale reports of transactions in designated securities to the NNTRF, failed to submit the “riskless” portion of “riskless” principal transactions in designated securities, and incorrectly reported the second leg of a principal transaction as “agent.” FINRA also found that the firm failed to report a last sale report of a transaction in OTC equity securities to the OTCRF, incorrectly reported the second leg of “riskless” principal transactions as “cross” transactions to the OTCRF; and failed to provide written notification disclosing to its customers that transactions were executed at an average price. Furthermore, FINRA found that the firm failed to make a report on covered orders in national market system securities it received for execution from any person publicly available. In addition, FINRA determined that the firm’s supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules addressing order handling, best execution, trade reporting, sale transactions, trading halt activity, OATS, and books and records. **(FINRA Case #2006004157702)**

**Oscar Gruss & Son, Incorporated (CRD #2091, New York, New York)** 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 the correct symbol indicating whether transactions were buy, sell, sell short, or cross for transactions in reportable securities to the NNTRF, and failed to report the correct symbol indicating whether it executed transactions in reportable securities in a principal or agency capacity to the OTCRF. The findings stated that the firm failed to report the correct

execution time to the OTCRF in last sale reports of transactions in designated securities, and failed to submit, for the offsetting, “riskless” portion of “riskless” principal transactions in designated securities, either a clearing-only report with a capacity indicator of “riskless principal,” or a non-tape, non-clearing report with a capacity indicator of “riskless principal” to the OTCRF. The findings also stated that the firm failed to report the cancellation of trades previously submitted to the NNTRF, and failed to report last sale reports of transactions in designated securities to the NNTRF. The findings also included that the firm made available a report on the covered orders in national market system securities it received for execution from any person that included incorrect information as to the number of covered orders. FINRA found that the firm failed, within 90 seconds after execution, to transmit last sale reports of transactions in OTC equity securities to the OTCRF. **(FINRA Case #2007007959002)**

**Penson Financial Services, Inc. (CRD #25866, Dallas, Texas)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$38,000, ordered to pay \$22,663, plus interest, in restitution to customers, and required to revise its written supervisory procedures with respect to TRACE reporting requirements. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it sold (bought) corporate bonds to (from) customers and failed to sell (buy) the bonds at a price that was fair, taking into consideration all relevant circumstances, including market conditions with respect to each bond at the time of the transaction, the expense involved and that the firm was entitled to a profit. The findings stated that the firm failed to show the time the orders were received and the correct execution time on order memoranda. The findings also stated that the firm failed to report the correct time of trade execution for transaction in TRACE-eligible securities to TRACE. The findings also included that the firm’s supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning TRACE reporting requirements. **(FINRA Case #2005000165602)**

**Prebon Financial Products Inc. (CRD #29551, Jersey City, New Jersey)** 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 trade reporting. 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 NNTRF within 20 minutes after execution that it had an obligation to accept or decline as the order entry identifier (OEID). 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. **(FINRA Case #2008013826301)**

**RBC Capital Markets Corporation (CRD #31194, New York, New York)** submitted an Offer of Settlement in which the firm was censured and fined \$150,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it allowed associated persons to function as research analysts without having Series 86 or 87 research analyst registrations. The findings stated that the unregistered analysts published more than 3,500 research reports, and published more than 400 research reports after FINRA informed the firm that it had made a preliminary determination to recommend disciplinary action be initiated

against the firm for its failure to appropriately register its research analysts (the Wells notice). The findings also stated that the last of the reports came seven months after the Wells Notice. **(FINRA Case #2005002206701)**

**State Street Global Markets, LLC (CRD #30107, Boston, Massachusetts)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$27,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to record the correct trade execution time for transactions in TRACE-eligible securities, which resulted in the firm failing to report transactions in TRACE-eligible securities to TRACE within 15 minutes of execution time; the firm failing to report the correct trade execution time for transactions to TRACE; and the firm failing to show the correct execution time on brokerage order memoranda. The findings stated that the firm failed to accept or decline transactions in reportable securities in the NNTRF or OTCRF within 20 minutes after execution that the firm had an obligation to accept or decline. **(FINRA Case #2007007816101)**

## Individuals Barred or Suspended

**Daniel Allen Abbott (CRD #3003452, Registered Representative, Virginia Beach, Virginia)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$20,000 and suspended from association with any FINRA member in any capacity for 60 days. The fine must be paid either immediately upon Abbott's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Abbott consented to the described sanctions and to the entry of findings that he presented seminars to promote the sale of reverse mortgages and solicit various types of investments from senior citizens contrary to his member firm's prohibition of engaging in any reverse mortgage business, including the promotion and sale of reverse mortgages. The findings stated that in connection with the seminars, Abbott sent invitations that used exaggerated and unwarranted claims, and used a slide and handouts that projected unfounded claims of future performance. The findings also stated that Abbott's public communications contained unbalanced discussions of reverse mortgages and made claims regarding his expertise and status in the financial industry that were misleading, false, unwarranted or lacked a sound basis. The findings also included that Abbott distributed communications that provided incomplete and unbalanced discussions of investment products and omitted material information. FINRA found that Abbott used communications in the seminars without a registered firm principal's prior written and dated approval and failed to file slides used in his presentation with FINRA's Advertising Regulation Department. FINRA also found that Abbott's seminar invitation failed to disclose the broker-dealer's name.

The suspension is in effect from August 3, 2009, through October 1, 2009. **(FINRA Case #2007010239501)**

**Kevin Michael Ahlert (CRD #5140632, Registered Representative, Mililani, Hawaii)** 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 Ahlert'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, Ahlert consented to the described sanctions and to the entry of findings that he made a \$3,700 loan to a customer when his member firm had a policy that prohibited its representatives from borrowing and lending money between registered persons and firm customers and when the lending arrangement did not meet the conditions stated in NASD Rule 2370.

The suspension was in effect from August 3, 2009, through September 1, 2009. **(FINRA Case #2007011337801)**

**Christopher Scott Airey (CRD #3083616, Registered Supervisor, Reston, Virginia)** 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. Without admitting or denying the findings, Airey consented to the described sanctions and to the entry of findings that he participated in private securities transactions without prior written notice to, or prior written approval from, his member firm.

The suspension is in effect from August 3, 2009, through November 2, 2009. **(FINRA Case #2007011128201)**

**Robert Bassari (CRD #2695482, Registered Principal, Chicago, 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 10 business days. Without admitting or denying the findings, Bassari consented to the described sanctions and to the entry of findings that he drafted a form letter about his previous employer and mailed it to former (potential) customers, which constituted sales literature without prior approval of an appropriate registered principal of his member firm. The findings stated that the form letter failed to provide a sound basis for statements contained in the letter, and contained other statements that were unwarranted.

The suspension was in effect from August 3, 2009, through August 14, 2009. **(FINRA Case #2008013061401)**

**Malcolm Jay Berko (CRD #19483, Registered Representative, Boca Raton, Florida)** submitted an Offer of Settlement which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Berko consented to the described sanction and to the entry of findings that he failed to respond to FINRA requests for information and testimony. **(FINRA Case #2009018003501)**

**William David Brusseau (CRD #4867722, 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, Brusseau consented to the described sanction and to the entry of findings that he failed and refused to provide requested information to FINRA. The findings stated that Brusseau borrowed \$16,800 from customers when his member firm's written procedures prohibited borrowing money from customers under any

circumstances. The findings also stated that Brusseau neither received written permission nor disclosed the borrowing arrangement before receiving the loan. **(FINRA Case #2008015672601)**

**Paul Scott Collier (CRD #866851, Registered Principal, Palm Springs, California)** submitted a Letter of Acceptance, Waiver and consent in which he was fined \$2,500 and suspended from association with any FINRA member in any capacity for five business days. Without admitting or denying the findings, Collier consented to the described sanctions and to the entry of findings that while registered with member firms, he failed to disclose to another member firm with which he maintained a securities account for which he had financial interest and discretionary authority, that he was associated with the member firms. The findings stated that Collier failed to disclose to his member firms that he maintained a securities account at another member firm.

The suspension was in effect from August 17, 2009, through August 21, 2009. **(FINRA Case #2007009903401)**

**Stephen Timothy Crawford (CRD #2581215, Registered Representative, Vista, California)** submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for two years. The fine must be paid either immediately upon Crawford'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, Crawford consented to the described sanctions and to the entry of findings that he borrowed \$25,000 from customers and obtained this loan notwithstanding the fact that his member firm had written procedures that prohibited borrowing from, or lending money to, customers. The findings stated that Crawford failed to update his Uniform Application for Securities Industry Registration or Transfer (Form U4) to disclose material information. The findings also stated that Crawford failed to respond to FINRA requests to appear for on-the-record testimony.

The suspension is in effect from July 20, 2009, through July 19, 2011. **(FINRA Case #2008013892301)**

**Philip Louis Crouse Sr. (CRD #1101212, Registered Principal, Renfrew, Pennsylvania)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Crouse consented to the described sanction and to the entry of findings that he caused the securities in a customer's retirement accounts to be liquidated and transferred the resulting proceeds to his member firm by forging the customer's signature on transfer of asset forms without the customer's knowledge and authorization. The findings stated that without the customer's knowledge or authorization, Crouse completed a variable annuity application and effected the purchase of a variable annuity for the customer through the firm by forging the customer's signature on a document in connection with the purchase. **(FINRA Case #2008015704901)**

**John Eugene Davidson (CRD #4637964, Registered Representative, Cleveland, Ohio)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Davidson willfully failed to update his Form U4 with material information. (FINRA Case #2007011375001)

**Sheila Dawnell Dowling (CRD #4651058, Registered Representative, Keller, Texas)** submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Dowling consented to the described sanction and to the entry of findings that she exercised discretion in a customer's account, and effected transactions and electronic fund transfers primarily involving the purchase of small equity positions and the writing of covered calls against these positions. The findings stated that although Dowling had a power of attorney from the customer, her member firm had not accepted the customer's account as discretionary and the firm had denied her trading authority over the customer's account. The findings also stated that Dowling failed to appear for an on-the-record sworn statement that FINRA requested. (FINRA Case #2008012128701)

**Daniel Lee Eppinga (CRD #3239164, Registered Representative, Sioux Falls, South Dakota)** 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, Eppinga consented to the described sanction and to the entry of findings that he assisted a customer with a purchasing transaction completed outside the scope of his relationship with his member firm, received \$6,301.46 in compensation for his role and did not provide his firm with prompt written notice of his outside business activity. The findings stated that Eppinga failed to appear for a FINRA on-the-record interview. (FINRA Case #2007009718801)

**Steven Dale Fowler (CRD #4380810, Registered Representative, Parker, Colorado)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Fowler consented to the described sanction and to the entry of findings that he misused insurance customers' funds totaling approximately \$44,000 that were provided to him to cover the entire policy term. The findings stated that Fowler only applied a portion of the monies toward the customers' annual premiums, used the remainder of the funds for his own personal benefit and paid the insurance premium balances at a later date. The findings also stated that the customers neither consented to, nor knew of, Fowler's use of their funds. (FINRA Case #2008013855201)

**Pamela Kelley Fox (CRD #2707091, Registered Representative, Monkton, Maryland)** 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 Fox'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, Fox consented to the described sanctions and to the entry of findings that she failed to disclose material information on her Form U4.

The suspension is in effect from July 20, 2009, through October 19, 2009. (FINRA Case #2008015140101)

**Dermot A. Graham (CRD #5441781, Registered Representative, Pompano Beach, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Graham consented to the described sanction and to the entry of findings that he wrongfully and without authorization converted \$8,666.12 in funds for his own use and benefit from individuals by securing debit or credit cards linked to their accounts, and used the cards for his personal benefit or a third party's benefit without the individuals' knowledge or consent. **(FINRA Case #2008013506001)**

**William J. Gray (CRD #712791, Registered Representative, Brick, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Gray consented to the described sanction and to the entry of findings that he forged the signatures of a customer and brokers of his member firm on necessary paperwork for the customer's purchase of a variable annuity. **(FINRA Case #2008013503901)**

**Christopher James Guetzkow (CRD #4183327, Registered Representative, Orono, Minnesota)** 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, Guetzkow consented to the described sanction and to the entry of findings that he failed to disclose material information on his Form U4 and failed to appear for an on-the-record interview. **(FINRA Case #2008012446901)**

**Carol Anne Heynen (CRD #1722739, Registered Representative, Raleigh, North Carolina)** submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$10,000 and suspended from association with any FINRA member in any capacity for nine months. In light of Heynen's financial status, a \$10,000 fine was imposed. The fine must be paid either immediately upon Heynen'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, Heynen consented to the described sanctions and to the entry of findings that she entered fictitious sell transactions into her member firm's Phase 3 order entry system, which is a back-office service provider and allows users to book transactions into the firm's books and records without actually executing the claimed transactions. The findings stated that Heynen entered the fictitious sell transactions and maintained long positions to circumvent the firm's trading account limits per security and total trading limit for her proprietary trading account. The findings also stated that at the end of the trading day, Heynen entered fictitious sell transactions for the total amount of her long positions and cancelled the transactions the next morning when the back office realized that the transactions did not match their record of transactions executed with the street. The findings also included that as a result of entering the fictitious sell transactions, Heynen concealed a \$76,810 unrealized trading loss from her firm. FINRA found that Heynen caused her firm's books and records to reflect false and misleading information regarding securities transactions in her account and, by entering the fictitious sell transactions at prices that concealed her unrealized trading losses, she engaged in unethical business conduct.

The suspension is in effect from August 3, 2009, through May 2, 2010. **(FINRA Case #2006005116301)**

**Roger Lee Hilpp (CRD #246212, Registered Representative, LaGrange, 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 10 business days. The fine must be paid either immediately upon Hilpp'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, Hilpp consented to the described sanctions and to the entry of findings that he used time and price discretion to effect discretionary transactions in a public customer's securities accounts without the customer's prior written authorization and his member firm's prior written acceptance of the accounts as discretionary.

The suspension was in effect from August 3, 2009, through August 14, 2009. **(FINRA Case #2008013611601)**

**Ronald Dwayne James (CRD #2608516, Registered Representative, Carlsbad, California)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that James failed to respond to FINRA requests for information. The findings stated that James effected securities transactions in a customer's account without the customer's prior authorization and consent. **(FINRA Case #2007009181901)**

**Michael Francis Jennetta Sr. (CRD #2255867, Registered Representative, West Atlantic City, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$2,500 and suspended from association with any FINRA member in any capacity for 10 business days. Without admitting or denying the findings, Jennetta consented to the described sanctions and to the entry of findings that he exercised discretion in customers' accounts without his customers' written authorization or their consent on the day of the trade.

The suspension was in effect from August 3, 2009, through August 14, 2009. **(FINRA Case #2007010282601)**

**Jacob Karamian (CRD #4682429, Registered Representative, Glendale, 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, Karamian consented to the described sanction and to the entry of findings that he changed the address of record for a customer's brokerage account to the branch address of the firm office where he worked without the customer's knowledge, authorization and consent. The findings stated that Karamian sent, via facsimile, a letter of authorization to his member firm's cashiering department requesting a wire transfer of \$281,768 from the customer's brokerage account to a third party escrow account at a bank without the customer's knowledge, authorization and consent. The findings also stated that Karamian had the customer sign the letter of authorization for the withdrawal of these funds, knowing that the customer had not read the letter and did not knowingly authorize or consent to the request to transfer funds out of his account. The findings also included that through a series of financial transactions, Karamian caused \$261,000 of the funds transferred to be deposited into a bank account he controlled and the customer had not authorized the transfer. **(FINRA Case #2007010029301)**

**Derek Roy Kent (CRD #733133, Registered Representative, Franktown, Colorado)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Kent consented to the described sanction and to the entry of findings that he participated in private securities transactions, received compensation for his participation, failed to provide his member firm with prior written notice, and failed to receive the firm's prior written approval. The findings stated that Kent engaged in outside business activities and failed to provide his firm with prompt written notice. The findings also stated that Kent negligently failed to advise investors and firm customers of material facts concerning a real estate venture and his involvement; specifically, that proceeds from the venture were to be applied towards defaulted bank loans for which he was personally liable. **(FINRA Case #2007008911201)**

**Jereis Elias Khawaja (CRD #4707688, Registered Representative, Houston, Texas)** was fined \$10,000 and suspended from association with any FINRA member in any capacity for two years. The sanctions were based on findings that Khawaja recklessly provided his customer with false and misleading bank comfort letters and failed to have a registered principal review his correspondence, in violation of the firm's written policies and procedures.

The suspension is in effect from July 6, 2009, through July 5, 2011. **(FINRA Case #2007007682501)**

**Francine Ann Lanaia (CRD #1415689, Registered Principal, Fort Salanga, New York)** 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 principal capacity for 20 business days. Without admitting or denying the findings, Lanaia consented to the described sanctions and to the entry of findings that she failed to adequately supervise a registered representative who engaged in unsuitable trading in customers' accounts.

The suspension was in effect from August 17, 2009, through September 14, 2009. **(FINRA Case #2008015470201)**

**Jamik Jamar Ligon (CRD #3153408, Registered Principal, Jersey City, New Jersey) and Rocco Anthony Mongelli (CRD #2746703, Registered Representative, Hillsdale, New Jersey)** submitted Letters of Acceptance, Waiver and Consent in which Ligon was fined \$7,500 and suspended from association with any FINRA member in any capacity for two months, and Mongelli was fined \$10,000 and suspended from association with any FINRA member in any capacity for three months. Ligon's fine must be paid either immediately upon his 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, Ligon and Mongelli consented to the described sanctions and to the entry of findings that Ligon paid Mongelli a \$50,000 referral compensation fee when Mongelli referred brokerage customers to Ligon because he was not registered to do business in the states of residence for those referred customers, and Ligon subsequently served as the registered representative for the accounts.

Ligon's suspension is in effect from August 3, 2009, through October 2, 2009. Mongelli's suspension is in effect from August 3, 2009, through November 2, 2009. (FINRA Cases #2007010287302/2007010287501)

**Anthony Lucchetto Jr. (CRD #3259939, Registered Representative, Plainfield, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Lucchetto consented to the described sanction and to the entry of findings that he participated in private securities transactions without prior written notice to, or written approval from, his member firm. The findings stated that Lucchetto failed to appear for a FINRA on-the-record interview. (FINRA Case #2009016788201)

**Stephen Michael Maher (CRD #807523, Registered Principal, Erie, Pennsylvania)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Maher consented to the described sanction and to the entry of findings that he borrowed \$70,000 from his member firm's customers in contravention of his firm's written policies prohibiting representatives from borrowing money from customers and without notifying the firm. The findings stated that Maher willfully failed to disclose material information on his Form U4. (FINRA Case #2008014350801)

**Robert Jay McDonald (CRD #2094113, Registered Principal, Wimberley, Texas)** submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member in any capacity for four months. In light of McDonald's financial status, no monetary sanction was imposed. Without admitting or denying the findings, McDonald consented to the described sanction and to the entry of findings that he participated in private securities transactions and failed to provide his member firm with prior notice.

The suspension is in effect from August 3, 2009, through December 2, 2009. (FINRA Case #2007011147801)

**Gary Allen Mitchell (CRD #1617340, Registered Principal, Sylacauga, Alabama)** was fined \$20,400, ordered to pay \$95,000, plus interest, in restitution, to a customer and suspended from association with any FINRA member in any capacity for one year. The sanctions were based on findings that Mitchell engaged in private securities transactions for compensation and failed to give written notice to, and obtain written approval from, his member firm prior to engaging in such activities.

The suspension is in effect from July 20, 2009, through July 19, 2010. (FINRA Case #2007009077401)

**Adnan Haroon Momin (CRD #4702379, Registered Representative, Monroe, 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 three months. The fine must be paid either immediately upon Momin'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, Momin consented to the described sanctions and to the entry of findings that he willfully failed to disclose material facts on his Form U4.

The suspension is in effect from August 3, 2009, through November 2, 2009. **(FINRA Case #2008013653901)**

**Sandra Nunez (CRD #5188662, Associated Person, Santa Ana, California)** submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity for 60 days. The fine must be paid either immediately upon Nunez' 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, Nunez consented to the described sanctions and to the entry of findings that, without the knowledge and consent of a customer and a registered representative, she signed, or caused to be signed, their names on a Policy and Delivery Receipt form that was intended to evidence their physical receipt and acceptance of a variable life insurance policy.

The suspension is in effect from August 3, 2009, through October 1, 2009. **(FINRA Case #2008015381901)**

**Johnny Amartey Nuno-Amarteifio (CRD #4916314, Registered Representative, Huntersville, North Carolina)** submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 90 days. The fine must be paid either immediately upon Nuno-Amarteifio'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, Nuno-Amarteifio consented to the described sanctions and to the entry of findings that, while working as a loan officer with a bank affiliate of his member firm, he falsified documents in an effort to conceal the fact that the purpose of the loan he was processing was to finance a real estate transaction in which he had an interest. The bank's policies prohibited loan officers from processing loans in which they had an interest.

The suspension is in effect from August 3, 2009, through October 31, 2009. **(FINRA Case #2007011867401)**

**Robyn Lynn O'Hara (CRD #2070198, Registered Principal, Snellville, Georgia)** submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, O'Hara consented to the described sanction and to the entry of findings that she engaged in multiple trades in customers' accounts at her member firms without the customers' authorization and consent. The findings stated that O'Hara continued unauthorized trading in one account even after the customer instructed her to cease all trading in the account. The findings also stated that O'Hara failed to appear for FINRA on-the-record testimony. **(FINRA Case #2007010775501)**

**Piyush Manubhai Patel (CRD #4860945, Registered Representative, Hamilton Square, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Patel consented to the described sanction and to the entry of findings that he engaged in private securities transactions without prior written notice to, or prior written approval from, his member firm. The findings stated that Patel sent

and received business-related emails from firm customers at his personal (non-firm) email address and then deleted the emails to avoid detection, without providing copies to the firm. (FINRA Case #2009017804601)

**Charles Palmer Peebles Jr. (CRD #2289816, Registered Representative, Glasgow, Virginia)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for five business days. Without admitting or denying the findings, Peebles consented to the described sanctions and to the entry of findings that he exercised discretion in customers' accounts to effect securities transactions without the customers' written authorization and his member firm's acceptance of the accounts as discretionary. The findings stated that the discretionary power had been conferred orally.

The suspension was in effect from August 17, 2009, through August 21, 2009. (FINRA Case #2008014351601)

**Jimmie Lee Pfeffer Jr. (CRD #5184808, Registered Representative, Dallas, 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 six months. The fine must be paid either immediately upon Pfeffer'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, Pfeffer consented to the described sanctions and to the entry of findings that he willfully failed to disclose material facts on Forms U4.

The suspension is in effect from July 20, 2009, through January 19, 2010. (FINRA Case #2007010685801)

**David Michael Piazza (CRD #4347282, Registered Representative, Montgomery, Illinois)** submitted an Offer of Settlement in which he was fined \$20,000 and suspended from association with any FINRA member in any capacity for two years. The fine must be paid either immediately upon Piazza'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, Piazza consented to the described sanctions and to the entry of findings that he deposited a customer's \$5,280 insurance premium payment into his own account rather than his member firm's account. The findings stated that Piazza then used other customers' premium payments to make up for the premium payment he had deposited into his own account. The findings also stated that, in order to avoid detection of his misconduct, Piazza temporarily changed the billing and mailing addresses on customers' accounts to his own address. The findings also included that Piazza failed to respond to FINRA requests for information and documents or otherwise communicate with FINRA in connection with requests until after the complaint was filed.

The suspension is in effect from August 3, 2009, through August 2, 2011. (FINRA Case #2008012835301)

**Joseph Ryan Quinn (CRD #4632569, Registered Representative, Watertown, South Dakota)** 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, Quinn consented to the described sanction and to the entry of findings that he engaged in an outside business activity, received \$5,149.26 in compensation for his role, and did not provide prompt written notice to his member firm. The findings stated that Quinn failed to appear for a FINRA on-the-record interview. **(FINRA Case #2007009718802)**

**Roberto Eitel Rodriguez (CRD #5531462, Registered Representative, Miami Beach, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Rodriguez consented to the described sanction and to the entry of findings that, acting in concert with an unregistered individual, he executed an unauthorized transfer of \$133,956 from an inactive bank account held at an affiliate bank of his member firm to an unrelated third-party account at another financial institution, without the authorization or knowledge of the bank or anyone exercising control over the account. **(FINRA Case #2009016830801)**

**Kenneth Scott Rubin (CRD #2847543, Registered Representative, San Diego, California)** 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, Rubin consented to the described sanction and to the entry of findings that he participated in private securities transactions, outside the scope of his employment with a member firm, without prior written notice to, and written permission from, his member firm. The findings stated that Rubin misled the firm each year when he completed Outside Business Activities Questionnaires and stated that he had not solicited and did not plan to solicit clients to participate in private securities transactions, had not raised equity for any private ventures and was not involved in real estate sales. **(FINRA Case #2007011499201)**

**Preston Douglas Runyan (CRD #1489516, Registered Representative, Sugar Grove, Illinois)** submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for four months. Without admitting or denying the allegations, Runyan consented to the described sanctions and to the entry of findings that he affixed the signature of a public customer's spouse to a spousal consent provision on an individual retirement account (IRA) application without the spouse's permission and authorization. The findings stated that Runyan signed his name on the application as witnessing the spouse's signature, which he had not. The findings also stated the application that Runyan signed on the spouse's behalf did not contain any notation evidencing that someone other than the spouse had signed it. The findings also included that Runyan's member firm maintained a compliance manual prohibiting registered representatives from committing forgery.

The suspension is in effect from August 17, 2009, through December 16, 2009. **(FINRA Case #2007007727601)**

**Ronald Peter Russo Jr. (CRD #2316145, Registered Principal, New York, 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 any capacity for 60 days. The fine must be paid either immediately upon Russo'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, Russo consented to the described sanctions and to the entry of findings that he failed to provide written notice to his member firm that he was engaged in outside business activities for compensation. The findings stated that, while associated with a member firm, Russo opened an account with another member firm and failed to notify either his member firm or the executing member firm, in writing, of his association with the other firm.

The suspension is in effect from August 3, 2009, through October 1, 2009. **(FINRA Case #2005000666701)**

**Filiep Paul Sackx (CRD #2971428, Registered Representative, Scotts Valley, California)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$15,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Sackx' 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, Sackx consented to the described sanctions and to the entry of findings that he distributed newsletters that a principal of his member firm had not approved for distribution, thereby preventing his firm from complying with NASD Rule 2210(C)(1) by providing the newsletters to FINRA's Advertising Regulation Department for approval; the newsletters failed to prominently disclose the firm's name as the broker-dealer through which he conducted his securities business; and one of the newsletters referenced an unregistered entity through which Sackx engaged in business but did not disclose the relationship between his firm and the unregistered entity. The findings stated that Sackx distributed invitations to seminars about financial matters, including investments, and a firm principal had not approved the content of the invitations. The invitations and Sackx' Web site misrepresented that he was the author of books; and the invitations contained misleading and exaggerated information and failed to identify his firm as the broker-dealer. The findings also stated that Sackx conducted seminars at which he made publications available for review, and offered to distribute the publications that were purchased from a vendor of investment publications, which a principal of his firm had not approved, and thereby prevented his firm from complying with NASD Rule 2210(C)(1) by providing the newsletters to FINRA's Advertising Regulation Department for approval. The findings also included that Sackx offered to distribute the publications on his public Web site. FINRA found that the publications contained violations of the content standards in FINRA Rules 2210(d)(1) and (2) and included statements that were misleading, inaccurate or unwarranted. FINRA also found that Sackx used a script in presenting material at the seminars that was outdated and misleading.

The suspension is in effect from July 20, 2009, through January 19, 2010. **(FINRA Case #2007009784401)**

**Kapil Shashikant Shah (CRD #4409290, Registered Principal, Jersey City, New Jersey)** submitted an Offer of Settlement in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for 20 business days. Without admitting or denying the allegations, Shah consented to the described sanctions and to the entry of findings that he made misrepresentations or omitted material facts in his conversations with customers. The findings stated that Shah had no reasonable basis for a price prediction or promises of unrealistic returns.

The suspension was in effect from August 3, 2009, through August 28, 2009. **(FINRA Case #2006003684703)**

**Boris Shteyngart aka Brian Stein (CRD #5025778, Registered Representative, Brooklyn, 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, Shteyngart 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 #2009018032701)**

**Mark Andrew Singer (CRD #3167820, Registered Representative, New Hope, Pennsylvania)** submitted an Offer of Settlement in which he was fined \$25,000 and suspended from association with any FINRA member in any capacity for two years. The fine must be paid either immediately upon Singer'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, Singer consented to the described sanctions and to the entry of findings that he failed to provide written testimony in response to a NYSE investigation and failed to appear for a related FINRA on-the-record interview.

The suspension is in effect from August 3, 2009, through August 2, 2011. **(FINRA Case #2007009432701)**

**Todd R. Smith (CRD #4071950, Registered Representative, Scottsdale, Arizona)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Smith's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Smith consented to the described sanctions and to the entry of findings that he recommended concentrated positions in a speculative stock involving a high degree of risk to customers. The findings stated that Smith did not have a reasonable basis for believing that his recommendations to purchase the stock were suitable for the customers in light of their financial situations, needs and other security holdings.

The suspension is in effect from July 20, 2009, through October 19, 2009. **(FINRA Case #2007008840301)**

**Christopher William Smude (CRD #2892451, Registered Principal, Oakland Township, Michigan)** 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 Smude'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, Smude consented to the described sanctions and to the entry of findings that he engaged in outside business activities, for compensation, and failed to give prompt written notice to his member firm. The findings stated that Smude continued to engage in undisclosed outside business activity after receiving a Letter of Caution from his firm.

The suspension is in effect from August 3, 2009, through February 2, 2010. **(FINRA Case #2007009867601)**

**Joaquinito See Soliman (CRD #1840707, Registered Principal, Chino Hills, California)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for 60 days. The fine must be paid either immediately upon Soliman'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, Soliman consented to the described sanctions and to the entry of findings that he effected discretionary transactions in customers' accounts, without written discretionary authority and his member firm's acceptance of the customer accounts as discretionary.

The suspension is in effect from July 20, 2009, through September 17, 2009. **(FINRA Case #2008015584401)**

**Kevin Joseph Speicher (CRD #5563472, Associated Person, Pelham, 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, Speicher consented to the described sanction and to the entry of findings that he willfully failed to disclose material facts on his Form U4 and failed to provide information requested by FINRA. **(FINRA Case #2008014413201)**

**Victoria Ann Toth (CRD #4667623, Registered Representative, Chester, New York)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Toth asked a bank teller to process an \$8,500 check payable to a mortgage company drawn on a bank customer's account without the customer's knowledge or consent, and forwarded the check to the company to pay Toth's mortgage. The findings stated that Toth admitted to the conversion when the bank questioned her, and also admitted to asking the teller to process another check for \$6,500, although she claimed she had the check voided. The findings also stated that Toth failed to respond to FINRA requests for information and to appear for an on-the-record interview. **(FINRA Case #2008012343001)**

**Lorenzo Vela (CRD #5108029, Registered Representative, Mission, Texas)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Vela willfully failed to update his Form U4 in a timely manner to disclose material information and failed to respond to FINRA requests for documents and information. **(FINRA Case #2008014409801)**

**Anthony Mark Villa (CRD #3088312, Registered Representative, Fontana, California)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$34,675, which includes disgorgement of \$24,675 in commissions received, and was suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Villa'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, Villa consented to the described sanctions and to the entry of findings that he participated in private securities transactions, received compensation for one of the transactions, and failed to provide prior written notification to, or receive written permission from, his member firm to engage in the transaction for which he received compensation.

The suspension is in effect from August 17, 2009, through February 16, 2010. **(FINRA Case #2007011286801)**

**Kareem Isadore Washington (CRD #5340780, Registered Representative, White Plains, 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, Washington consented to the described sanction and to the entry of findings that he assisted customers in opening fraudulent bank accounts and withdrawing money from the newly opened fraudulent accounts, and received approximately \$4,700 in compensation for assisting in the scheme. The findings stated that the customers of Washington's member firm opened the bank accounts with falsified identifying information and made initial deposits of money with counterfeit checks drawn on the accounts of the firm's other customers. The findings also stated that at the customers' direction, Washington made branch and automatic teller machine (ATM) withdrawals for the customers, despite knowing that the customers deposited counterfeit checks and that fraud alerts were placed on the accounts. The findings also included that the bank lost a total of \$43,093.81 from the scheme. **(FINRA Case #2008012952201)**

**Michael Timothy Williams (CRD #4211505, Registered Representative, Brandon, Vermont)** 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 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 provided a prospective client with a piece of sales literature for a variable annuity that he had falsified by altering it. The findings stated that the original time periods for charges associated with fund withdrawal had been

deleted and replaced with handwritten shorter time periods, falsely reflecting lower charges associated with withdrawal of funds from the variable annuity; the information regarding the annual contract fee and investment portfolio expenses were crossed out, falsely suggesting that they would not be imposed; and additional charges associated with optional features were deleted, falsely suggesting that there were no additional fees for the optional features. The findings also stated that Williams made verbal misrepresentations to the client about the variable annuity that were consistent with the false information in the falsified sales literature.

The suspension is in effect from August 3, 2009, through August 2, 2010. **(FINRA Case #2007011013801)**

**Stephen John Woods (CRD #4390407, Registered Representative, Lawrence, 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 10 business days. Without admitting or denying the findings, Woods consented to the described sanctions and to the entry of findings that he paid a customer \$353 to compensate the customer for trading expenses, without his member firm's authorization or permission.

The suspension was in effect from August 17, 2009, through August 28, 2009. **(FINRA Case #2008015754101)**

**Steven Boyle Yamashiro (CRD #1953754, Registered Principal, Pasadena, California)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Yamashiro failed to respond to FINRA requests for information. The findings stated that Yamashiro engaged in private securities transactions and did not provide written notice to, or receive prior approval from, his member firm. **(FINRA Case #2007008723501)**

**Auric Dane Zygala (CRD #3135565, Registered Representative, Baltimore, Maryland)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Zygala consented to the described sanction and to the entry of findings that he misappropriated a total of \$60,000 from customers by forging their signatures on variable annuity surrender request forms that directed the funds be disbursed electronically to Zygala's personal account at his member firm without the customers' authorization to sign their names or to effect the transfers. **(FINRA Case #2009016783401)**

## Decision Issued

The Office of Hearing Officers (OHO) issued the following decision, which has been appealed to or called for review by the National Adjudicatory Council (NAC) as of July 31, 2009. The NAC may increase, decrease, modify or reverse the findings and sanctions imposed in the decision. Initial decisions where the time for appeal has not yet expired will be reported in future FINRA Notices.

**CMG Institutional Trading, LLC (CRD #47264, Chicago, Illinois) and Shawn Derrick Baldwin (CRD #4281564, Registered Principal, Chicago, Illinois).** The firm was expelled from FINRA membership and Baldwin was barred from association with any FINRA member in any capacity. The sanctions were based on findings that the firm and Baldwin provided untimely and incomplete responses to written requests for information and failed to respond to other requests for information. The findings stated that Baldwin failed to respond to FINRA requests to appear for an on-the-record interview.

This decision has been appealed to the NAC. The sanctions are not in effect pending consideration of the appeal. **(FINRA Case #2008012026601)**

## Complaints Filed

FINRA issued the following complaint. 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.

**Derek Allan Chowen (CRD #4286245, Registered Representative, Charlevoix, Michigan)** was named as a respondent in a FINRA complaint alleging that he sold mutual fund positions from a public customer's pension plan securities account and purchased a different mutual fund without the customer's knowledge or consent, and in the absence of written or oral authorization to exercise discretion in the account, netting a \$760 commission. The complaint alleges that, pursuant to verbal authority, Chowen exercised discretion in public customers' accounts without the customers' prior written authorization and his member firm's prior written acceptance of the accounts as discretionary, netting \$1,464.20 in commissions from the discretionary transactions. The complaint also alleges that Chowen failed to respond to FINRA requests for documents and information. **(FINRA Case #2008012409101)**

**Donald Raymond Dunakin III (CRD #2838663, Registered Representative, El Dorado Hills, California)** was named as a respondent in a FINRA complaint alleging that he recommended securities purchases to a customer when he knew the customer did not have the financial resources to purchase securities without using funds from a home loan, and that he therefore had no reasonable basis to believe that the transactions were suitable for the customer. The complaint also alleges that Dunakin did not have a reasonable basis for believing that his recommendations to purchase securities on margin, which amounted to debt secured by debt, such as purchasing securities on

margin, were suitable for the customer in light of the customer's financial circumstances and needs. The complaint further alleges that Dunakin provided false testimony to FINRA in an investigation. (FINRA Case #2007010558801)

**Willis Scudder Georgia III (CRD #2374955, Registered Representative, Stephens City, Virginia)** was named as a respondent in a FINRA complaint alleging that he misappropriated \$7,500 from a charitable organization where he served as a volunteer treasurer by writing and cashing checks made payable to himself. The complaint alleges that Georgia failed to appear for a FINRA on-the-record interview. (FINRA Case #2008014358201)

**Stephen Paul Grantham (CRD #4673736, Registered Representative, Tulsa, Oklahoma)** was named as a respondent in a FINRA complaint alleging that he converted \$11,663.76 of customers' funds to his personal use by withdrawing and misappropriating the customers' monies from their IRA accounts. The complaint alleges that Grantham acknowledged that the withdrawals were made without the customers' consent. The complaint also alleges that Grantham failed to respond to FINRA requests for information and documents. (FINRA Case #2008012871301)

**Kelvin Koma (CRD #5327866, Registered Representative, Lincolnwood, Illinois)** was named as a respondent in a FINRA complaint alleging that he wrongfully obtained ATM cards from a retail bank's customers and used them to make unauthorized withdrawals totaling \$2,625 from the customers' accounts and used the misappropriated money for his personal use. The complaint alleges that Koma failed to respond to FINRA requests for information and to appear for an on-the-record interview. (FINRA Case #2008015985501)

**Richard Albert Seefried (CRD #1062447, Registered Principal, Spokane, Washington)** was named as a respondent in a FINRA complaint alleging that he exercised discretionary power in a customer's account without receiving the customer's prior written authorization or his member firm's acceptance of the account as discretionary. The complaint alleges that Seefried knowingly provided false information to the firm when he completed Registered Representative Compliance Summaries, causing the firm's books and records to become inaccurate. The complaint also alleges that Seefried knew that a customer's signature on a New Issue Certification was not genuine, but he submitted it, or caused it to be submitted, to the firm, and it became part of the firm's books and records, thereby falsifying the firm's records. The complaint further alleges that Seefried recommended and effected transactions in a customer's account without having reasonable grounds for believing that the transactions were suitable based upon the facts the customer disclosed as to her other security holdings, financial situation and needs. (FINRA Case #2007008443101)

**Gina Crawford Sims (CRD #4718520, Registered Representative, Gastonia, North Carolina)** was named as a respondent in a FINRA complaint alleging that she received a \$928.78 check from an individual to purchase an auto insurance policy, deposited the check in her personal bank account and did not use it to pay the premium. The complaint alleges that Sims received \$5,148.50 from customers to purchase variable life insurance policies and deposited the funds in her bank account and never used the funds to pay the premiums. The complaint also alleges that Sims failed to respond to FINRA requests to appear and testify. (FINRA Case #2008012948801)

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

**Strasbourg Pearson Tulcin Wolff Incorporated**  
Garden City, New York  
(July 8, 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.)

**Ara Proudian**  
New Rochelle, New York  
(July 16, 2009)

**Michael J. Schumacher**  
Purchase, New York  
(July 8, 2009)

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

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

**Gerardo A. Fernandez**  
Parkland, Florida  
(July 27, 2009)

**Donald William Grigley Jr.**  
Hamden, Connecticut  
(July 8, 2009)

**Catherine Marie Hennagir**  
Houston, Texas  
(July 31, 2009)

**Hong Kyu Park**  
Fountain Valley, California  
(July 6, 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.)

**Kaloian Ivanov Barbukov**  
Clifton, New Jersey  
(July 13, 2009)

**Louise M. Batchelor**  
San Diego, California  
(July 6, 2009)

**Richard J. Brockway**  
Erie, Pennsylvania  
(July 27, 2009)

**Jill Anne Graziano**  
Malden, Massachusetts  
(July 30, 2009)

**Daniel Richard Marcelain**  
Macomb Township, Michigan  
(July 20, 2009)

**Kristin Noel Mitchell**  
Pensacola, Florida  
(July 13, 2009)

**Michael Paul Satterfield**  
Sandy, Utah  
(July 31, 2009)

**Siri Siriphanthong**  
Gainesville, Georgia  
(July 16, 2009)

**Danny Valenzuela**  
Tucson, Arizona  
(July 20, 2009)

**Christopher Todd Wood**  
Hopkinsville, Kentucky  
(July 10, 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.)

**Ian Philmore Bynoe**  
Brooklyn, New York  
(July 16, 2009)

**Daniel Domenic Cialini**  
Dobbs Ferry, New York  
(July 16, 2009)

**Tracy L. Clifford**  
Fishers, Indiana  
(July 9, 2009)

**Gerald Dean Cronenwett**  
Fishers, Indiana  
(March 16, 2006 – July 27, 2009)

**William Charles Dahm Jr.**  
Lawton, Pennsylvania  
(July 9, 2009)

**Thomas H. Dering**  
Lavallette, New Jersey  
(July 9, 2009)

**Christopher Brooks Farley**  
Chicago, Illinois  
(July 9, 2009)

**Sofia Frankel**  
Miami Beach, Florida  
(July 29, 2009)

**Christopher Michael Hince**  
Buffalo, Minnesota  
(July 16, 2009)

**Cyrus Khiabani**  
New York, New York  
(May 25, 2005 – July 30, 2009)

**Denis William Kraemer Jr.**  
West Babylon, New York  
(July 9, 2009)

**Damascus Isaiha Lee**  
Brooklyn, New York  
(July 16, 2009)

**Thomas Michael Polston**  
Louisville, Kentucky  
(July 9, 2009)

**Kevyn Reser Robinson**  
Memphis, Tennessee  
(July 16, 2009)

**Eric Anthony Solis**  
Corona del Mar, California  
(July 9, 2009)

## **FINRA Fines NEXT Financial Group \$1 Million for Supervisory Failures That Led to Churning of Customer Accounts, Excessive Commissions**

### **Additional Violations Included Unreasonable Charges for Bond Trades; Former Chief Compliance Officer Fined and Suspended**

The Financial Industry Regulatory Authority (FINRA) has fined NEXT Financial Group, Inc., headquartered in Houston, TX, \$1 million for supervisory violations that primarily involved the failure to supervise its approximately 130 Office of Supervisory Jurisdiction (OSJ) branch managers, who typically supervise transactions and sales activity for individual brokers or branches within a particular region. OSJ branch managers' transactions and sales activities are then supposed to be supervised by another registered principal designated by the firm.

Between January 2005 and November 2006, the firm allowed its OSJ branch managers to self-supervise their own handling of customer accounts without adequate review. In November 2006, the firm adopted a regional manager supervisory system to provide principal review of the OSJ managers' transactions. Through at least December 2007, however, this new system was also unreasonable because, among other reasons, it required three regional managers to review thousands of transactions each month with limited access to client suitability information.

The lack of reasonable policies and written procedures resulted in the firm's failure to detect churning of customer accounts by an OSJ manager, Gregory Horton, and a broker, Timothy Shively, as well as excessive markups and markdowns on corporate bond trades by another two brokers. As a result, customers of the firm, including elderly and retired individuals, lost about \$768,000, which has been reimbursed. In separate actions, FINRA barred Horton and Shively from the industry in January 2008 and October 2008, respectively.

"These violations demonstrate why supervisory controls and reviews are so important at every firm and go the heart of FINRA's rules," said Susan L. Merrill, Executive Vice President and Chief of Enforcement. "The protection of investors demands that a brokerage firm devote sufficient resources to its compliance and supervisory programs for both brokers and managers who are handling customer accounts."

Under FINRA rules, firms must appoint one or more principals to "establish, maintain, and enforce a system of supervisory control policies and procedures." During 2007 and 2008, the firm failed to reasonably satisfy its obligations because, among other failures, it did not adequately test the firm's supervisory systems or provide adequate review of OSJ branch managers.

FINRA further found that the firm's systems and procedures governing variable annuity exchanges were not reasonable. Variable annuity sales accounted for approximately 33 percent of the firm's revenue during the relevant period. The firm's written supervisory procedures, however, failed to provide adequate guidance concerning the criteria that should be considered in recommending variable annuity exchanges to its customers including, for example, a comparison between the features, costs and benefits of the old and new products.

FINRA also found that the firm failed to apply its written heightened supervision procedures to at least two representatives and properly fingerprint firm employees resulting in it hiring a statutorily disqualified person in its main office.

In connection with the above systemic deficiencies, FINRA also sanctioned Karen Eyster, the firm's former Chief Compliance Officer and Chief Operating Officer, for failing to fulfill her supervisory obligations. Eyster was the principal responsible for the firm's supervisory systems and written procedures, and failed to create a reasonable system for supervising OSJ branch managers and the Regional Managers who subsequently supervised the branch managers. FINRA fined Eyster \$35,000 and suspended her as a principal for two months. FINRA is also requiring Eyster to retake her qualifying examination to be a supervisor and take 15 hours of training on supervision issues.

As part of the settlement, the firm must certify that it has implemented new systems and procedures reasonably designed to achieve compliance with the federal securities laws and FINRA Rules described above and in other areas identified in the settlement agreement.

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

## **FINRA Fines Bank Broker-Dealers \$1.65 Million for Supervisory Failures in Variable Annuity, Mutual Fund and UIT Transactions**

### **Five Firms Sanctioned, One Charged with Unsuitable VA Sales to the Elderly**

The Financial Industry Regulatory Authority (FINRA) fined five bank broker-dealers a total of \$1.65 million for deficient supervision and procedures related to variable annuity (VA), mutual fund or unit investment trust (UIT) transactions.

Brokers at each of the firms operated out of branches of affiliated banks, selling VAs, mutual funds or UITs to bank customers, who, in many instances, were elderly. The brokerage customers were referred by bank personnel, and sales of these financial products represented a significant portion of each firm's business.

"Today's actions underscore the need for firms operating bank branches to have effective systems and procedures in place to monitor sales of variable annuities, mutual funds, and UITs," said Susan Merrill, FINRA Executive Vice President and Chief of Enforcement. "Bank broker-dealers have access to a broad customer base through their retail bank branches. Proper care must be taken to appropriately supervise sales to those customers, particularly the elderly who can be unfamiliar with securities products as they seek alternatives to certificates of deposit and other bank offerings."

The five firms that FINRA fined for deficient systems and procedures relating to VA, mutual fund or UIT sales, and the amount of their fines, are:

- McDonald Investments (now KeyBanc Capital Markets, Inc.) – \$425,000
- IFMG Securities – \$450,000
- Wells Fargo Investments, LLC – \$275,000

- PNC Investments – \$250,000
- WM Financial Services, Inc. (now Chase Investment Services Corp.) – \$250,000

McDonald Investments, now KeyBanc Capital Markets, also was charged with unsuitable variable annuity sales to elderly customers.

In the case against McDonald, FINRA found that, between June 2004 and January 2006, a former broker at the firm made 32 unsuitable sales to 25 elderly bank customers, recommending each customer purchase a VA with an enhanced death benefit rider. The customers, all 78 years old or older, were either too old to be eligible for the rider, or very close to the ineligible age. Those customers who purchased the VA with the enhanced death benefit rider received little or no benefit from the rider despite paying higher fees for it over the life of the annuity.

FINRA ordered the firm to offer the 25 affected 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.

FINRA also found that McDonald failed to take adequate remedial steps in response to red flags indicating that the broker was engaging in unsuitable VA transactions, including nine customer complaints filed against the broker about her annuity sales, and the broker's practice of consistently engaging in a pattern of selling elderly bank customers the same variable annuity with the same enhanced death benefit rider.

The firm placed the broker under heightened supervision, but while under heightened supervision, the broker undertook all 32 unsuitable transactions and the firm approved them. FINRA also found that McDonald failed to implement adequate VA supervisory systems and procedures.

As for IFMG Securities, FINRA found that the firm used trade blotters to assess suitability and approve VA and mutual fund transactions that did not capture key information, such as the customer's investment time horizon, risk tolerance and other financial assets—all details that are necessary for the principal to conduct an adequate suitability review. Also, important suitability information on the blotters was presented in a way that did not reflect customers' true income or net worth; the blotter reflected only the highest number in the range of values from which it was taken.

In addition to the blotter review, IFMG's Compliance Department performed a review of account documents approximately 10 days after transactions had been completed to further assess suitability and to ensure that all paperwork had been completed. However, because the transactions had been completed by that time, the Compliance Department often had difficulty obtaining the requested information and completing its review. As a result, FINRA found, a large backlog of unapproved transactions developed at IFMG from 2004 through 2006. That backlog delayed final approval of transactions for weeks, months and in some cases, for over a year. Despite knowledge of the growing backlog, IFMG failed to take effective action to address the problem, which continued until the firm changed to a pre-approval suitability review system between May and August of 2006. IFMG no longer operates as a broker-dealer.

In the Wells Fargo, PNC Investments and WM Financial Services cases, FINRA found that the firms did not provide adequate guidance to principals who approved variable annuity transactions, or in the case of WM Financial, UIT transactions.

Prior to November 2004, Wells Fargo provided no factors to guide principals in determining suitability. From November 2004 to September 2006, it instructed principals to consider such factors as a client's liquidity needs, tax deferral needs and time horizon, without providing guidance on how to apply such factors to determine suitability, and did not capture information relevant to such factors. After September 2006, Wells Fargo removed its list of factors to consider when recommending VA transactions, leaving its principals and brokers without any guidance on how to determine suitability in VA transactions.

FINRA found that PNC Investments instructed its principals to consider factors such as a customer's source of funds, health and investment time horizon without collecting or recording all the information necessary for principals to assess suitability and to consider factors such as the client's age, need for tax deferral and liquidity without providing guidance on how to apply such factors in their suitability review. Principals therefore applied inconsistent definitions. Firms are required, if they include such factors in their procedures, to have systems in place to implement the factors.

In the case of WM, the firm had no procedures specific to determining suitability of UIT transactions, and provided no guidance on how to review exception reports concerning exchanges from VAs and mutual funds into UITs. Compliance personnel, therefore, were provided no criteria to identify patterns of exchanges over time or whether such exchanges were suitable. WM also required certain paperwork to be completed for exchanges, capturing the rationale for the exchange and all fees, including surrender charges, but provided no guidance to principals to use the information to determine if the exchange was suitable.

Wells Fargo, PNC and WM also failed to detect patterns of potentially questionable transactions, which could indicate a broker's failure to properly tailor recommendations to each customer's investment needs and situations. At Wells Fargo and PNC Investments, these included patterns of brokers selling the same guaranteed minimum income benefit rider to all or nearly all customers who purchased certain VA carriers' products. WM Financial Services failed to adequately investigate certain brokers' potentially unsuitable VA exchanges into UITs, despite concerns raised by the firm's compliance department.

In settling each of these matters, none of the firms admitted nor denied the charges, but consented to the entry of FINRA's findings.

## FINRA Permanently Bars Broker Operating Ponzi Scheme Involving Customers of Broker-Dealers

### Victims Included Members of Broker's Church; Matter Referred to Criminal Authorities

The Financial Industry Regulatory Authority (FINRA) has permanently barred Kenneth George Neely of St. Louis, a former registered representative with AXA Advisors, LLC, for conducting a Ponzi scheme involving customers of AXA, his previous employer Stifel, Nicolaus & Co. Inc., as well as Neely's family, friends and fellow church members.

"This individual was robbing Peter to pay Paul," said Susan L. Merrill, FINRA Executive Vice President and Chief of Enforcement. "What is especially disturbing about this case is the exploitation of family and church relationships to defraud unsuspecting investors of their hard-earned savings to finance both the scheme and personal expenses."

Neely only stopped collecting funds when FINRA staff confronted him about the fictitious real estate investment trust (REIT) earlier this month. AXA terminated Neely's employment upon his admission to FINRA staff that he converted customer funds for his personal use. FINRA's investigation is continuing.

FINRA found that Neely conducted an elaborate Ponzi scheme, fraudulently inducing at least 25 brokerage customers, family and fellow church members to participate in a fictitious "St. Louis Investment Club" and to invest in the non-existent real estate investment trust, the "St. Charles REIT."

To conceal the scheme from his employers and federal and state tax authorities, Neely typically had investors make payments to his wife, in increments of \$2,000 to \$3,000. As such, the payments would avoid bank scrutiny and could go undetected when the funds were converted to cash. Neely prepared false invoices for the REIT purchases that were designed to appear like official ownership certificates

These fraudulent certificates—created using Neely's personal computer—bore the names of a fictitious "President" and "Secretary" and listed Neely's mother's home address as the address of the St. Louis Investment Club. In some cases, Neely falsely assured his investors that their investment would be carefully handled because he was on the investment club's board of directors.

In one particular instance, FINRA found that Neely stole \$154,000 from a long-time friend and recent retiree, as well as an additional \$10,000 from that friend's daughter. Neely had begun managing the friend's retirement assets in 2002, but by 2007 Neely was facing demands from clients who were seeking the return of their previously invested money.

Neely approached the friend with the promise of a high rate of return on the fraudulent St. Charles REIT investment. While Neely eventually returned \$10,000 to this person, Neely used the balance of the investment to pay down personal debts, including country club and golf expenses. Neely's monthly country club dues and entertainment expenses sometimes exceeded \$4,000.

In another instance, FINRA found that Neely induced a fellow church member to invest \$35,000 of a retirement account. Neely promised a 5 percent rate of return from the St. Charles REIT investment and told the customer that membership in the St. Louis Investment Club was limited to a discrete number of members. Although Neely made small interest payments in cash in the beginning, the payments dwindled and later ended as Neely used the balance of the \$35,000 investment to fund personal expenses.

In total, Neely improperly used over \$600,000 in investors' assets, returned about \$300,000 of the funds back to some of the investors and thus converted more than half of this amount to his own personal use.