

Disciplinary and Other FINRA Actions

Firm and Individual Fined

Bear Stearns & Co., Inc., nka J.P. Morgan Securities, Inc. (CRD #79, New York, New York) and Renee Michelle Fourcade (CRD #1021348, Registered Representative, Beverly Hills, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$225,000, and Fourcade was censured and fined \$15,000. Without admitting or denying the findings, the firm and Fourcade consented to the described sanctions and to the entry of findings that the firm shared portfolio trading commissions with Fourcade in violation of Rule 2830(k)'s prohibition against sharing investment company portfolio trading commissions with sales personnel involved in the retail sale or distribution of investment company shares. The findings stated that, notwithstanding its awareness of the payments, the firm failed to supervise the arrangement and the payments thereunder, and failed to ensure compliance with FINRA directed brokerage rules. **(FINRA Case #2006006804401)**

Firms Fined

Agency Trading Group, Inc. (CRD #108887, Wayzata, Minnesota) 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, within 90 seconds after execution, to transmit to the FINRA/NASDAQ Trade Reporting Facility® (TRF™) numerous last sale reports of transactions in National NASDAQ Market, NASDAQ Small Cap and Consolidated Quotation Service securities. **(FINRA Case #2008014257301)**

Bear Stearns & Co., Inc., nka 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 \$500,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to establish and maintain adequate supervisory systems within its retail brokerage operation to supervise registered representatives' sales of a hedge fund of funds to retail customers. The findings stated that the firm failed to adequately supervise, approve and record private securities transactions a registered investment advisor engaged in on the firm's behalf on its books and records.

Reported for October 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).

The findings also stated that the firm's registered representatives used marketing materials that contained hypothetical returns, failed to make adequate disclosure of the risks involved and failed to provide a sound basis for investing in a hedge fund of funds, and made exaggerated or unwarranted claims in its marketing materials. **(FINRA Case #2007011145701)**

BGC Financial, L.P. (CRD #19801, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report transactions in Trade Reporting and Compliance Engine™ (TRACE™)-eligible securities to TRACE within 15 minutes of the execution time and failed to report the correct execution time for those transactions. The findings stated that the firm failed to show the correct execution time on brokerage order memoranda for TRACE-eligible securities. **(FINRA Case #2008014376301)**

B. Riley & Co., LLC (CRD #40355, Los Angeles, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted reports to the Order Audit Trail System (OATS™) that contained inaccurate or incomplete data. **(FINRA Case #2008014913601)**

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 \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted Route or Combined Order/Route Reports to OATS that the OATS system was unable to link to the related order routed to NASDAQ due to inaccurate, incomplete or improperly formatted data, and transmitted reports to OATS that should not have been submitted. The findings stated that the firm transmitted New Order Reports and related subsequent reports to OATS where the timestamp for the related subsequent report had a time prior to that of the timestamp for the receipt of the order and, because of the inaccurate timestamps, the OATS system was unable to create an accurate, time-sequenced record from the receipt of the order through its resolution. **(FINRA Case #2006006288701)**

Cantor Fitzgerald & Co. (CRD #134, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$135,000 and required to revise its written supervisory procedures regarding soft dollar payments. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to timely report Reportable Order Events (ROEs) to OATS; transmitted reports to OATS that contained inaccurate Market Center IDs, inaccurate order designations, inaccurate time in force information and missing desk reports, and failed to use combined reports. FINRA found that the firm failed, within 90 seconds after execution, to transmit last sale reports of transactions in eligible securities to the NASDAQ Market Center. The findings stated that the firm submitted ROEs to OATS that were rejected for context or syntax errors, and the firm failed to repair most of the rejected ROEs. The findings also stated that the firm accepted short sale orders in an equity security from another person, or effected short sales in an equity security 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 it is due; and documenting compliance with Securities and Exchange Commission (SEC) Rule 203(b)(1) of Regulation SHO. The findings also included that the firm accepted a customer short sale order in a security and failed to make/annotate an affirmative determination that the firm would receive delivery of the security on the customer's behalf or that the firm could borrow the security on the customer's behalf for delivery by settlement date.

FINRA found that the firm failed to accept or decline transactions in reportable securities in the TRF within 20 minutes after execution when the firm had an obligation to accept or decline as the Order Entry Identifier (OEID). FINRA also found that the firm transmitted Route or Combined Order/Route Reports to OATS that the OATS system was unable to link to the corresponding new order transmitted by the destination member firm due to inaccurate, incomplete or improperly formatted data. In addition, FINRA determined that the firm executed short sale transactions and reported the transactions to the Automated Confirmation Transaction Service (ACT) without using the short sale modifier accurately, and executed short sale orders and failed to properly mark them as short. Moreover, FINRA found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning soft dollar payments. Furthermore, FINRA found that the firm failed to enforce its written supervisory procedures by failing to review transactions executed by its "risk/arb" desk. In addition, FINRA found that the firm failed to submit required information to OATS; and failed to provide written notification disclosing its correct capacity in transactions to its customers, that transactions were executed at an average price, that the firm was a market maker in the security when it acted as principal for its own account, or the type of compensation the firm received as a result of the transactions. FINRA found that the firm failed to provide documentary evidence that it performed the supervisory reviews set forth in its written supervisory procedures concerning trade reporting, use of sales indicators for sales transactions and OATS submissions by the firm and third parties on its behalf. FINRA also found that the firm failed to provide written notification disclosing to its customers its specific capacity in transactions and incorrectly disclosed to its customers that a commission was charged for a principal or riskless principal transaction. In addition, FINRA found that the firm failed to provide written notification disclosing its specific capacity in transactions and also provided written notification erroneously disclosing that it was a market maker in a security. FINRA found that the firm failed to transmit required information to OATS, failed to submit reports to OATS with a special handling code of "NH" as required for a not held order and incorrectly submitted a reporting exception to OATS for an execution reported as riskless principal under the alternate method. (FINRA Case #2005001796701)

Cantor Fitzgerald & Co. (CRD #134, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$60,000 and required to revise its written supervisory procedures regarding short interest reporting. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it submitted reports to FINRA concerning NASDAQ, Over-the-Counter (OTC™) and American Stock Exchange short interest

positions at the firm that were inaccurate. The findings stated that the firm failed to report New York Stock Exchange (NYSE)-listed short interest positions at the firm to FINRA that it should have reported. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning short interest reporting. (FINRA Case #2006006491201)

CIBC World Markets Corp. (CRD #630, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to accept or decline transactions in reportable securities in the TRF or the OTC Reporting Facility within 20 minutes after execution that it had an obligation to accept or decline as the OEID. (FINRA Case #2008013827501)

CP Capital Securities, Inc. (CRD #15029, Miami, Florida) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$21,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it acted as the placement agent for a contingency offering of securities; failed to satisfy the minimum contingency of the offering by the closing date, failed to terminate the offering and return investor funds; extended the offering period; and raised additional funds, but failed to send written reconfirmation offers to investors regarding the extension and material updates prior to the closing date. The findings stated that the firm failed to establish a proper escrow account in connection with the offering and directed a premature release of investor funds from the escrow account prior to satisfying the offering contingency requirement. The findings also stated that the firm made improper payments to non-registered foreign entities for referrals of customers; one customer was not a foreign entity domiciled abroad, nor did the firm obtain written acknowledgment of the existence of the compensation arrangement, and the firm failed to provide a descriptive document disclosing what compensation was being paid to the non-registered foreign entities. The findings also included that the firm failed to implement its anti-money laundering (AML) compliance program, in that it failed to monitor transactions for red flags. FINRA found that the firm failed to preserve email correspondence relating to its securities business for at least three years. FINRA also found that the firm failed to timely forward an investor's check payment for an offering to the escrow account and, as a result, the firm held customer funds while conducting a securities business and became subject to a net capital requirement that it did not satisfy. (FINRA Case #2007007145101)

Hold Brothers On-Line Investment Services L.L.C. (CRD #36816, Jersey City, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$25,000 and required to revise its written supervisory procedures with respect to applicable securities laws, regulations and FINRA rules concerning SEC Rules 10a-1, 200(g) and 203(b)(1), and NASD® Rule 3350. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it executed short sale orders and failed to properly mark the orders as short; and accepted

short sale orders in an equity security from another person, or effected a short sale in an equity security for its own account, without borrowing the security, or 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 Regulations SHO. 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 SEC Rules 10a-1, 200(g) and 203(b)(1), and NASD Rule 3350. **(FINRA Case #2006004689501)**

HP Securities, Inc. (CRD #31538, Troutdale, Oregon) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000, \$5,000 of which was jointly and severally. The firm must also certify to FINRA, in writing, every three months, for one year, that it has complied with its obligations under 31 CFR Part 103.100(b)(2)(i). Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that, acting through a registered representative, it failed to conduct searches of firm records with respect to information requests from the Financial Crimes Enforcement Network. The findings stated that the firm's AML compliance officer was responsible for implementing and monitoring the day-to-day operations and internal controls of the firm's AML compliance program and, for about two years, failed to include internal controls reasonably designed to achieve compliance with implementing regulations of the Bank Secrecy Act. The findings also stated that the firm failed to establish and implement policies, procedures and internal controls reasonably designed to achieve compliance with the Bank Secrecy Act and implementing regulations thereunder. The findings also included that the firm failed to make and keep adequate written reports of an annual inspection and review of its Office of Supervisory Jurisdiction. **(FINRA Case #2008011569801)**

I-Bankers Securities, Inc. (CRD #41352, Santa Monica, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted reports to OATS that contained inaccurate or incomplete data. **(FINRA Case #2007009808101)**

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 \$20,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that a registered representative and market maker with the firm entered contemporaneous buy and sell orders in different securities into the firm's electronic trading platform so that the resulting transactions executed against one another in numerous separate transactions, creating a false appearance of market activity in the securities. The findings stated that each of the separate transactions was publicly reported to NASDAQ through ACT and disseminated to the public. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with rules regarding the trading activity described above for proprietary traders or market makers. **(FINRA Case #2005002134101)**

KBC Financial Products USA, Inc. (CRD #46709, 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 failed to report transactions in TRACE-eligible securities to TRACE within 15 minutes of the execution time. The findings stated that the firm failed to accept or decline transactions in reportable securities in the TRF within 20 minutes after execution that the firm had an obligation to accept or decline as the OEID. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning equity securities trade reporting. **(FINRA Case #2007008068801)**

Keane Securities Co., Inc. (CRD #8452, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$12,000. 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 that it was required to report to the OTC Reporting Facility. The findings stated that the firm failed to enforce its written supervisory procedures concerning trade reporting and workstation reviews. **(FINRA Case #2008013099301)**

Morgan Stanley & Co., Incorporated (CRD #8209, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$20,000. 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 FINRA and submitted inaccurate short interest position reports in NYSE-listed securities to the NYSE. **(FINRA Case #2007008266401)**

Morgan Stanley & Co., Incorporated (CRD #8209, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$90,000 and required to pay \$40,604.81, 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 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 stated that the firm purchased municipal securities for its own account from customers and/or sold municipal securities for its own account to customers at an aggregate price (including any markdown or markup) that was not fair and reasonable, taking into consideration all relevant factors, including the best judgment of the broker, dealer or municipal securities dealer as to the fair market value of the securities at the time of the transaction and of any securities exchanged or traded in connection with the transaction, the expense involved in effecting the transaction, the fact that the broker, dealer or municipal securities dealer is entitled to a profit, and the total dollar amount of the transaction. **(FINRA Case #2007011945701)**

Pali Capital, Inc. (CRD #117783, New York, 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 maintained the registrations for individuals employed by or affiliated with hedge funds that were firm customers and that executed trades through the firm but who were not active in the firm's investment banking or securities business, and did not function otherwise as registered representatives. The findings stated that the firm failed to establish, maintain and enforce an adequate supervisory system and adequate written supervisory procedures reasonably designed to achieve compliance with FINRA rules to prevent the firm from maintaining the registration of any registered representative who was not actively involved in the firm's investment banking or securities business and not functioning as a firm representative. **(FINRA Case #2006004122301)**

Pershing LLC (CRD #7560, Jersey City, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$20,000 and required to pay \$2,001.24, plus interest, in restitution to customers. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that, in OTC™ Bulletin Board (OTCBB™) transactions for or with customers, the firm failed to use reasonable diligence to ascertain the best inter-dealer market, and failed to buy or sell in such market so that the resultant price to its customers was as favorable as possible under prevailing market conditions. **(FINRA Case #2007008345101)**

Quantlab Securities LP (CRD #119955, Houston, Texas) 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 OATS was unable to link some of its New Order Reports to a Route Report that it transmitted to the OATS system by another firm for which Quantlab was named as the Sent to Firm. **(FINRA Case #2007007832901)**

RenCap Securities, Inc. (CRD #37821, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$17,500 and required to revise its written supervisory procedures regarding trade reporting. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed, within 90 seconds after execution, to transmit last sale reports of transactions in OTC equity securities that it was required to report to the OTC Reporting Facility. 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 #2006006490401)**

Scott & Stringfellow, LLC (CRD #6255, Richmond, Virginia) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report instances in which it had participated in negotiated municipal securities underwritings on a MSRB Form G-37. **(FINRA Case #2008011754301)**

SG Americas Securities (CRD #128351, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$250,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report approximately 6,000 transactions in TRACE-eligible securities that it was required to report to TRACE. The firm effected these transactions on a firm affiliate's behalf. The firm also failed to report 133 transactions within 15 minutes after execution and failed to report the correct trade execution time for 61 transactions. The findings stated that the firm failed to show the correct trade execution time on brokerage order memoranda and failed to include certain yield information required by SEC Rule 10b-10 on approximately 34,000 electronic customer confirmations sent to institutional customers using the Depository Trust Corporation (DTC) Institutional Delivery (ID) system in connection with debt security transactions. The findings also stated that the firm failed to establish, maintain and enforce adequate supervisory systems in that the firm failed to ensure an adequate supervisory review of customer confirmations that were issued electronically to institutional customers using the DTC ID system. **(FINRA Case #2008014361101)**

Synergy Investment Group LLC (CRD #46035, Charlotte, North Carolina) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$75,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to establish and implement policies and procedures reasonably designed to detect and cause the reporting of suspicious customer activity; failed to detect, investigate and conduct due diligence when red flags associated with suspicious activity were present; failed to file Suspicious Activity Reports (SARS) when red flags associated with suspicious activity were present; and failed to follow its written supervisory procedures, in that it failed to conduct appropriate risk-based due diligence for correspondent accounts of foreign financial institutions customers owned, and failed to implement adequate supervisory procedures to monitor the suspicious activity in those accounts. The findings stated that the firm failed to perform AML customer identification reviews for customers, as required by its procedures, which would have revealed that several accounts appeared to be shell vehicles for possible securities fraud; the firm failed to file SARS on individuals possibly engaged in insider trading; the firm did not adequately test its AML compliance program and, during a two-year period, failed to conduct or document AML training. The findings also stated that the firm paid transaction-related compensation to non-registered foreign finders who did not meet the requirements for compensation; failed to provide documents to its customers that disclosed the compensation being paid to foreign finders, and the customers' confirmation statements failed to indicate that a referral or finder's fee was being paid. The findings also included that the foreign finder signed account documents and no one from the firm signed the documents accepting the accounts which contained discrepancies and were incomplete. FINRA found that the firm failed to establish and maintain a supervisory system reasonably designed to achieve compliance with rules relating to its foreign finders and foreign associates business. FINRA also found that the firm failed to establish and maintain a supervisory system reasonably designed to achieve compliance with FINRA's advertising rules resulting in firm violations with its Web site and advertisements. **(FINRA Case #2007007139501)**

thinkorswim, Inc. (CRD #106069, Chicago, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$275,000 and required to revise its written supervisory procedures regarding OATS reporting, municipal securities transaction reporting, order handling, best execution, trade reporting, sale transactions, trading halts and multiple market participant identifiers (MPIDs). Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted Route or Combined Order/Route Reports to OATS that the OATS system was unable to link to the corresponding new order transmitted by the destination member firm or the related order routed to NASDAQ due to inaccurate, incomplete or improperly formatted data; transmitted ROEs to OATS that OATS rejected for context or syntax errors, and the firm failed to repair all of the rejected ROEs; and failed to report numerous ROEs to OATS on numerous business days. The findings stated that the firm failed to enforce its written supervisory procedures specifying that its supervisory personnel would review rejections and make corrections as necessary, and its supervisory system did not include written supervisory procedures reasonably designed to ensure that its OATS reporting system was submitting all ROEs as required. The findings also stated that the firm transmitted numerous reports to OATS that contained inaccurate, incomplete or improperly formatted data, in that reports failed to properly identify contingency orders, contained inaccurate timestamps for Route Reports, failed to report modified orders accurately, included inaccurate limit prices, failed to correctly identify short sales, omitted or contained inaccurate special handling codes, omitted stop prices, and/or failed to correctly identify time-in-force codes. The findings also included that the firm failed to timely report ROEs to OATS, and transmitted reports that contained inaccurate timestamps.

FINRA found that the firm failed to make its reports on its routing of non-directed orders in covered securities publicly available in a timely manner for two calendar quarters. FINRA also found that the firm reported information to the Real-time Transaction Reporting System that it was not required to report because the firm was not party to the transactions. FINRA also found that the firm failed to properly adjust open limit orders. 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/or FINRA rules addressing OATS reporting, municipal securities transaction reporting, order handling, best execution, trade reporting, sale transactions, trading halts and multiple MPIDs. Moreover, FINRA found that the firm failed to provide sufficient documentary evidence that it performed reviews regarding qualifications of trading and supervisory personnel, anti-intimidation/coordination, OATS, and books and records. **(FINRA Case #2005001484606)**

Waterford Investor Services, Inc. (CRD #46227, Clearwater, Florida) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$12,500 and required to revise its written supervisory procedures regarding OATS. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to transmit all of its ROEs to OATS on numerous business days. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning OATS. **(FINRA Case #2007011240401)**

White Pacific Securities, Inc. (CRD #42505, San Francisco, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it executed transactions in TRACE-eligible securities without first executing a TRACE Participation Agreement with FINRA. The findings stated that the firm failed to report transactions in TRACE-eligible securities and erroneously reported transactions to TRACE under the Market Participant Identifier of its clearing firm. The findings also stated that the firm failed to establish and maintain a supervisory system reasonably designed to achieve compliance with FINRA rules regarding TRACE reporting. **(FINRA Case #2008011624401)**

Individuals Barred or Suspended

Dana Reece Anderson (CRD #2204878, Registered Representative, Waterloo, Iowa) submitted a Letter of Acceptance, Waiver and Consent in which he was censured and barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Anderson consented to the described sanctions and to the entry of findings that he forged a customer's signature and initials to his member firm's documents to facilitate a variable annuity application. The findings stated that Anderson failed to respond to FINRA requests for information. **(FINRA Case #2008015512201)**

Kerry Dexter Barris (CRD #3103134, Registered Representative, Holtsville, 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, Barris consented to the described sanction and to the entry of findings that he forged a customer's signature and initials on variable annuity applications and related documents. The findings stated that Barris directed customers, who received an unauthorized electronic deposit of \$11,280 into their bank account from the transfer agent of Barris' member firm, to write a personal check payable to him for \$11,280, and he would return the funds to the transfer agent; instead, Barris misappropriated the funds for his own use. **(FINRA Case #2008014435701)**

Linda Jo Bartley (CRD #4592841, Registered Representative, Haslett, Michigan) and William Arthur Donaldson (CRD #716268, Registered Representative, Yorba Linda, California) submitted Letters of Acceptance, Waiver and Consent in which Bartley was fined \$15,000 and suspended from association with any FINRA member in any capacity for two months. Donaldson was fined \$5,000 and suspended from association with any FINRA member in any capacity for one month. The respective fines must be paid either immediately upon their respective reassociation with a FINRA member firm following the suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Bartley and Donaldson consented to the described sanctions and to the entry of findings that their member firm entered into a "Selling Agreement" with a company to serve as a selling agent for the company's offering and sold the unregistered offering pursuant to an exemption from SEC registration pursuant to Regulation D. The findings stated that Bartley and Donaldson, acting on the firm's behalf, sold interests in the company's offering to investors with whom neither they nor the firm had any

pre-existing relationship prior to the time that they contacted them relating to a potential investment in the offering company. The findings also stated that Bartley, Donaldson and the firm used the means of interstate commerce to offer and effect these transactions, thus engaging in a general solicitation with respect to the offering. The findings also included that Bartley sent a document to prospective investors relating to the offering, which was not fair and balance, omitted material risks relating to the offering, and she failed to obtain approval from a firm principal prior to sending the document to prospective investors.

Bartley's suspension is in effect from August 17, 2009, through October 16, 2009. Donaldson's suspension was in effect from August 17, 2009, through September 16, 2009. (FINRA Cases #2005003504002/#2005003504003)

Nadav Nachum Baum (CRD #1484811, Registered Principal, Pittsburgh, Pennsylvania) 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 30 days. Without admitting or denying the findings, Baum consented to the described sanctions and to the entry of findings that he engaged in discretionary trading in a deceased customer's account without written authorization, and engaged in discretionary trading in other customers' accounts without written authorization.

The suspension was in effect from September 8, 2009, through October 7, 2009. (FINRA Case #2007009432101)

Kevin Michael Browne (CRD #1725031, Registered Principal, Dillon Beach, California) submitted an Offer of Settlement in which he was suspended from association with any FINRA member in any capacity for one year. In light of Browne's financial status, no monetary sanction was imposed. Without admitting or denying the allegations, Browne consented to the described sanction and to the entry of findings that he, directly or indirectly, by the use of means or instrumentalities of interstate commerce, or of the mails, knowingly or recklessly employed devices, schemes or artifices to defraud; made untrue statements of a material fact or omitted to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, concerning a Collateralized Mortgage Obligation (CMO) Program and CMO investments; or engaged in acts, practices or courses of business which operated, or would operate, as a fraud or deceit upon his customers.

The findings stated that Browne effected transactions in, or induced the purchase or sale of, securities by means of any manipulative, deceptive or other fraudulent device or contrivance. The findings also stated that Browne intentionally or recklessly made misrepresentations of material facts and omitted to disclose material facts to customers in connection with their CMO investments. The findings also included that Browne recommended risky and illiquid CMO positions to customers without investigating and understanding the products; Browne lacked reasonable grounds to believe that CMOs were suitable for his customers based on their disclosed investment experience, investment objectives, financial situation and needs. FINRA found that Browne exercised discretionary authority in customer accounts without his customers' prior written authorization and his firm's prior written acceptance of the accounts as discretionary.

The suspension is in effect from September 21, 2009, through September 20, 2010. (FINRA Case #2007011348301)

Kenneth Mark Carpenter (CRD #2037223, Registered Representative, Maryland Heights, Missouri) 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, Carpenter consented to the described sanction and to the entry of findings that he was aware of and understood his member firm's policies and procedures relating to personal use of the corporate credit card, but, nevertheless, used his corporate credit card to pay for personal expenses and for his personal use, charging a total of \$9,338.48 in personal expenses to the card. (FINRA Case #2008015174101)

Miguel Alberto Chavez (CRD #4686088, Registered Representative, Austin, Texas) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Chavez failed to disclose to his member firm that he opened and maintained a brokerage account at another firm, and failed to disclose to the other firm that he was a registered representative with a member firm. The findings stated that Chavez made material misrepresentations to his member firm about his outside business activity and made material misrepresentations to both firms regarding his outside securities account. The findings also stated that Chavez participated in firm audits and compliance questionnaires and falsely reported that he did not participate in any outside business activities. The findings also included that Chavez engaged in outside business activities without providing notice to his member firm and failed to appear for FINRA on-the-record interviews. (FINRA Case #2007009200801)

Suzanne Kay Courter-Jann (CRD #1282573, Registered Principal, Wilmington, Delaware) submitted an Offer of Settlement in which she was fined \$7,500 and suspended from association with any FINRA member in any principal capacity for 30 days. Without admitting or denying the allegations, Courter-Jann consented to the described sanctions and to the entry of findings that she backdated her firm's Annual Compliance and Supervision Certification, causing a record and document that her member firm was required to make and preserve to be inaccurate. The findings stated that Courter-Jann provided the certification to FINRA without disclosing that she had backdated it and/or that the date shown on it was not the date when she had signed it.

The suspension is in effect from September 21, 2009, through October 20, 2009. (FINRA Case #2007011550101)

James Sylvester Currier (CRD #2070654, Registered Principal, Bloomfield Hills, Michigan) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000, suspended from association with any FINRA member in any capacity for six months, and suspended from association with any FINRA member in any principal capacity for two years. Without admitting or denying the findings, Currier consented to the described sanctions and to the entry of findings that he acted in a principal capacity, including supervising brokers and reviewing trades, without having requalified to act in that capacity as required by the terms of a Letter of Acceptance, Waiver and Consent.

The suspension in any capacity is in effect from September 8, 2009, through March 7, 2010, and the suspension in any principal capacity is in effect from September 8, 2009, through September 7, 2011. (FINRA Case #2006006406003)

Michael Kipland Czerny (CRD #852399, Registered Representative, Grosse Pointe, Michigan) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for one year. The fine must be paid either immediately upon Czerny'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. FINRA did not impose disgorgement because Czerny had already paid the customer \$150,000, which exceeds the amount of his financial gain. Without admitting or denying the findings, Czerny consented to the described sanctions and to the entry of findings that he participated in private securities transactions and failed to give prior written notice to his member firm of the proposed transactions and failed to receive his firm's prior written approval to engage in the transactions.

The suspension is in effect from September 8, 2009, through September 7, 2010.
(FINRA Case #2007010642101)

Sergio M. Del Toro (CRD #3069166, Registered Principal, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Del Toro consented to the described sanction and to the entry of findings that he recommended and effected securities purchases to a customer that were unsuitable in light of the customer's age and financial condition, and received \$76,650 in commissions from the investment. The findings stated that Del Toro engaged in private securities transactions and failed to provide written notice to his member firms describing in detail the proposed transactions, his role therein and stating whether he had received, or would receive, selling compensation in connection with the transactions. The findings also stated that Del Toro guaranteed the customer in writing against loss. (FINRA Case #2007007777501)

Dan Alexander Derby (CRD #2505258, Registered Representative, Chicago, Illinois) and Jeffry Alan Mullins (CRD #2726351, Registered Representative, Ridgefield, Connecticut) submitted Letters of Acceptance, Waiver and Consent in which they were each fined \$10,000 and suspended from association with any FINRA member in any capacity for 30 days. Derby'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, Derby and Mullins consented to the described sanctions and to the entry of findings that they verbally communicated a guarantee against loss to an institutional investor in connection with the sale of Collateralized Debt Obligation (CDO) securities.

Derby's suspension was in effect from September 8, 2009, through October 7, 2009, and Mullins' suspension is in effect from September 21, 2009, through October 20, 2009. (FINRA Cases #2007010829801/#2007010829802)

Joseph Walter Duff (CRD #2294244, Registered Representative, Berlin, 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, Duff consented to the described sanction and to the entry of findings that he

improperly withdrew and misappropriated \$193,000 from customers' bank accounts by preparing debit memoranda and withdrawal slips then depositing the improperly withdrawn funds into his personal bank account or transferring the funds to other customers' bank accounts. **(FINRA Case #2007010600401)**

Steven Kerry Eckert (CRD #1922041, Registered Representative, Aliso Viejo, California) 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 Eckert'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, Eckert consented to the described sanctions and to the entry of findings that he altered the completion date on a variable annuity continuing education certificate to show that he had completed the course 20 days prior to his actual completion date and prior to the sale of annuity products. The findings stated that Eckert faxed the altered certificate to an insurance company, which notified his member firm of the altered date.

The suspension was in effect from August 17, 2009, through September 15, 2009. **(FINRA Case #2007010992201)**

Gregory Alan Eller (CRD #1983768, Registered Representative, Winston-Salem, North Carolina) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for 15 business days. The fine must be paid either immediately upon Eller'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, Eller consented to the described sanction and to the entry of findings that he made unsuitable recommendations to his customers to buy closed end funds (CEFs) purchased in an initial public offering (IPO) and sell them in the short term without fully understand the pricing of CEFs and the risks and rewards of the investments. The findings stated that Eller's recommendations contributed to his customers losing approximately \$97,000.

The suspension is in effect from October 5, 2009, through October 23, 2009. **(FINRA Case #2005002767202)**

Eric Jay Engelhardt (CRD #1085632, Registered Representative, Dix Hills, 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, Engelhardt 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 #2007011151501)**

Jared Scott Friedman (CRD #4678181, Registered Representative, North Bergen, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$15,000, ordered to pay \$500, plus interest, in restitution to a customer, and suspended from association with any FINRA member in any capacity for seven months. The fine and restitution must be paid either immediately upon Friedman'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, Friedman consented to the described sanctions and to the entry of findings that he engaged in a private securities transaction without prior written notice to, or prior written approval from, his member firm, and received a referral fee as compensation. The findings stated that Friedman failed to timely and completely respond to a FINRA request for information.

The suspension is in effect from September 8, 2009, through April 7, 2010. **(FINRA Case #2009017804501)**

Charles Lee Gallamore (CRD #2443271, Registered Principal, Prosper, Texas) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Gallamore consented to the described sanction and to the entry of findings that he raised over \$1.5 million from investors through offers and sales of limited partnership interests in a hedge fund, and made numerous misrepresentations in connection with the offers and sales that were inconsistent with the private placement memorandum (PPM). The findings stated that Gallamore used over \$1.3 million of the funds raised to invest in promissory notes issued by private companies in which he had a controlling interest, and made misrepresentations regarding the fund's investment strategy, the concentration of investment funds in particular investments; the use of funds, and the amount of management fees and other expenses charged to the fund. The findings also stated that Gallamore omitted to timely disclose material facts including that he exercised sole discretion over the fund's operations, and misused customer funds received in connection with the fund offering by obtaining debit cards linked to accounts and utilized the cards to pay for personal and non-business related expenses. The findings also included that Gallamore caused funds from the various accounts to be transferred to his personal brokerage account and caused monthly payments for non-business related expenses to be drafted from one of the accounts. FINRA found that Gallamore, through his member firm, conducted an unregistered offering of the securities of an entity for which there was no available exemption due primarily to the offering being conducted pursuant to a general solicitation, and failed to timely disclose to investors that the firm was under common control with the issuer, in that he owned both entities. FINRA also found that Gallamore failed to properly supervise the activities of a registered representative for whom he had supervisory responsibility, and failed to review the representative's email correspondence. **(FINRA Case #2008011629601)**

Raymond Paul Gerrior Jr. (CRD #1215126, Registered Representative, Beverly, Massachusetts) 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 18 months. The fine must be paid either immediately upon Gerrior'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, Gerrior consented to the described sanctions and to the entry of findings that he fabricated a letter purportedly from his employer insurance company that falsely represented the date he commenced

working as an insurance agent, and submitted the fabricated letter to the Massachusetts Division of Insurance to support his argument that he had been licensed by his member firm before a date that would have required him to complete the prescribed continuing education.

The suspension is in effect from September 8, 2009, through March 7, 2011. **(FINRA Case #2008013988901)**

Gary Wayne Gill (CRD #2582792, Registered Representative, Mickleton, 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, Gill consented to the described sanction and to the entry of findings that he misappropriated a customer's funds by investing the funds in securities transactions without the customer's knowledge and consent. The findings stated that after earning a profit from the investments, Gill took possession of approximately \$29,603 of the profit for his personal use and benefit. The findings also stated that Gill effected unauthorized securities transactions using the customer's funds and securities. **(FINRA Case # 2008014875501)**

Alan Howard Gold (CRD #1177708, Registered Representative, Wilmette, 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 four months. The fine must be paid either immediately upon Gold'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, Gold consented to the described sanctions and to the entry of findings that he borrowed \$44,043 from a member firm's customer when the firm's compliance manual generally prohibited representatives from borrowing money from customers unless the customer was an immediate family member, a registered member of the same broker dealer or a financial institution. The customer was not a "permitted" borrower.

The suspension is in effect from August 17, 2009, through December 16, 2009. **(FINRA Case # 2007010611801)**

Sarah Rachel Goldrich (CRD #5542763, Associated Person, Hainesville, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity for two years. The fine must be paid either immediately upon Goldrich'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, Goldrich consented to the described sanctions and to the entry of findings that she took a typed list of securities-related definitions and formulas that she had created into the testing area for her Series 7 examination in violation of FINRA's Test Center Rules of Conduct.

The suspension is in effect from September 8, 2009, through September 7, 2011. **(FINRA Case #2008015963001)**

Jesse Gomez Jr. (CRD #2707056, Registered Principal, Fresno, 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 12 months. The fine must be paid either immediately upon Gomez' 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, Gomez consented to the described sanctions and to the entry of findings that he failed to timely respond to FINRA requests for information and documentation.

The suspension is in effect from August 17, 2009, through August 16, 2010.
(FINRA Case #2008012558301)

Debra Lea Hanes (CRD #5272382, Registered Representative, Bend, Oregon) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Hanes failed to respond to FINRA requests for information. The findings also stated that Hanes forged a customer's signature on an insurance application without the customer's knowledge or authorization. (FINRA Case #2007011071701)

Ronald Eugene Holtrey (CRD #854461, Registered Principal, Springboro, Ohio) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000, suspended from association with any FINRA member in any supervisory capacity for six months, and required to requalify as a principal by examination before again acting in a principal or supervisory capacity. The fine must be paid either immediately upon Holtrey'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, Holtrey consented to the described sanctions and to the entry of findings that he failed to adequately supervise a registered representative who misappropriated \$90,000 from customers. The findings stated that Holtrey failed to detect and follow up on red flags regarding the registered representative's business with his customers, including a failure to take appropriate action as required by his member firm's supervisory procedures to review weekly sales blotters. The findings also stated that, after receiving telephone calls from a customer and her financial advisor at another firm raising concerns about the registered representative's activities, Holtrey failed to conduct any follow-up, bring the complaint to his member firm's attention or initiate any process related to the complaint.

The suspension is in effect from September 8, 2009, through March 7, 2010.
(FINRA Case #2008013818402)

George Hovsepian Jr. (CRD #2602467, Registered Representative, Ludlow, Massachusetts) 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, Hovsepian consented to the described sanction and to the entry of findings that he falsified surrender charge information on disclosure documents he prepared in connection with a variable annuity transaction for a customer. The findings stated that Hovsepian forged the customer's signature on variable annuity documents without her knowledge, authorization or consent. (FINRA Case #2008012935101)

Charles Russ Huffington (CRD #844086, Registered Principal, Austin, Texas) submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member in any capacity for six months. In light of Huffington's financial status, no monetary sanctions were imposed. Without admitting or denying the findings, Huffington consented to the described sanction and to the entry of findings that he recommended and engaged in excessive and unsuitable trading in customers' accounts. The findings stated that Huffington exercised discretion in the customers' account without the customers' prior written authorization and his member firm's written acceptance of their accounts as discretionary.

The suspension is in effect from September 8, 2009, through March 7, 2010.
(FINRA Case #2008013086201)

Neal Anthony Impellizeri (CRD #1195207, Registered Principal, Plandome, New York) was fined \$25,000, suspended from association with any FINRA member in any capacity for six months and ordered to pay \$7,929 in restitution to customers. The National Adjudicatory Council (NAC) imposed the sanctions following appeal of an Office of Hearing Officers (OHO) decision. The sanctions were based on findings that Impellizeri omitted material information regarding OTCBB securities. The findings stated that Impellizeri omitted from his disclosures to the customers the potentially lucrative benefits that could accrue to his member firm from his sale of the securities because of the firm's potential consulting arrangements with the issuers and positions in their stock.

The suspension is in effect from October 5, 2009, through April 6, 2010. **(FINRA Case #2005000127502)**

Randy Lee Inserra (CRD #3037483, Registered Representative, Omaha, Nebraska) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$100,000 and suspended from association with any FINRA member in any capacity for one year. The fine must be paid either immediately upon Inserra'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, Inserra consented to the described sanctions and to the entry of findings that he engaged in a private security transaction for compensation, and failed to provide his member firm with prior written notice of his role in this transaction and did not receive his firm's written approval or acknowledgement of his role in this transaction.

The suspension is in effect from September 8, 2009, through September 7, 2010.
(FINRA Case #2007010792801)

Jung Han Kim aka Jay Kim (CRD #2972169, Registered Representative, Vancouver, Washington) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Kim failed to respond to FINRA requests for information. The findings stated that Kim borrowed money from a customer without his member firm's knowledge or permission even though he had signed a firm compliance agreement in which he specifically agreed not to borrow money or

securities from a client. The findings stated that Kim failed to disclose that he had an outside brokerage account to his member firm, made false representations to the other firm and failed to disclose his employment with a member firm. **(FINRA Case #2007011178001)**

Francis Kimaru (CRD #4821531, Registered Principal, Lynn, Massachusetts) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Kimaru failed to respond to FINRA requests for information. **(FINRA Case #2008012932101)**

Valerie Elaine King (CRD #3086903, Registered Principal, Milwaukee, Wisconsin) was fined \$5,000 and suspended from association with any FINRA member in any capacity for two concurrent two-year terms. The fine is due and payable when King returns to the securities industry. The sanctions were imposed following King's withdrawal of her appeal to the NAC. The sanctions were based on findings that King willfully failed to amend her Uniform Application for Securities Industry Registration or Transfer (Form U4) with material information, and failed to fully and timely respond to FINRA requests for information and documents.

The concurrent suspensions are in effect from October 19, 2009, through October 19, 2011. **(FINRA Case #2007010236401)**

Christopher Thomas Kline (CRD #1641746, Registered Representative, York, Pennsylvania) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Kline failed to appear for a FINRA on-the-record interview. **(FINRA Case #2008012775301)**

Steven Duncan Kowalske (CRD #4742065, Registered Principal, Livonia, Michigan) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Kowalske consented to the described sanction and to the entry of findings that he failed to respond to FINRA requests for specific information and documents and to appear for an on-the-record interview. **(FINRA Case #2008013337001)**

James Bryant Layson Jr. (CRD #4830568, Registered Representative, Montgomery, Alabama) 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, Layson consented to the described sanction and to the entry of findings that he accepted approximately \$300 from individuals as insurance policy premium payments and, instead of forwarding the funds to the issuer, deposited the funds into his personal bank account without the individuals' knowledge and consent, thereby converting the funds to his own use. **(FINRA Case #2008015621601)**

Jerry Wayne LeBlanc Jr. (CRD #4018364, Registered Representative, Willis, Texas) submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 13 months. The fine must be paid either immediately upon LeBlanc'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, LeBlanc consented to the described sanctions and to the entry of

findings that he borrowed \$20,000 from a customer, signed a promissory note without prior written notice to his member firm and without obtaining pre-approval from the firm's chief executive officer. The findings stated that LeBlanc never provided any notice, orally or in writing, to the firm concerning his borrowing arrangement with the customer and never complied with his payment obligations under the promissory note. The findings also stated that LeBlanc falsely answered "no" on an annual firm certification form regarding borrowing money from a customer.

The suspension is in effect from August 17, 2009, through September 16, 2010.
(FINRA Case #2007010382601)

Stephen Scott Lee (CRD #5257196, Registered Representative, Aurora, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Lee consented to the described sanction and to the entry of findings that he borrowed \$1,500 from a customer contrary to his member firm's compliance manual, which prohibited representatives from borrowing money from customers. The findings stated that Lee failed to respond to FINRA requests for information. (FINRA Case #2008014827301)

Debra Ann Lund (CRD #845326, Registered Principal, Fargo, North Dakota) 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, Lund consented to the described sanction and to the entry of findings that she failed to respond to FINRA requests for information. (FINRA Case #2008016444401)

Christopher Jacob Martinez (CRD #4072355, Registered Representative, Tucson, Arizona) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Martinez withdrew \$51,300 from the firm customers' variable annuity accounts without the customers' consent or authorization, and used the money for personal expenses. The findings stated that Martinez failed to respond to FINRA requests for information and documents. (FINRA Case #2007010851901)

Michael Anthony Nicolosi (CRD #5430609, Registered Representative, Bronx, New York) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Nicolosi willfully failed to disclose material information on his Form U4. (FINRA Case #2008012516401)

John Christopher Nori (CRD #2505172, Registered Supervisor, Rochester Hills, Michigan) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000, suspended from association with any FINRA member in any capacity for three months, concurrently suspended from association with any FINRA member in any supervisory capacity for six months, and required to requalify as a Series 9 and 10 prior to beginning any supervisory position following his suspensions. The fine must be paid either immediately upon Nori's reassociation with a FINRA member firm following the six-month 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, Nori consented to the described sanctions and to the entry of findings that he

denied to NYSE Regulation examiners that the branch office he supervised employed non-registered cold-callers and that they used telemarketing scripts when, in fact, there were interns at the branch office engaged in those activities. The findings stated that, in an attempt to obfuscate the facts and mislead the examiners, Nori instructed his staff at the branch office that, if asked, the employees were to tell the examiners that there were no approved interns employed at the branch office. The findings also stated that, while either possessing personal knowledge to the contrary or after learning information to the contrary, Nori failed to fully and accurately disclose to the examiners that his member firm employed non-registered cold-callers at a branch office.

The suspension in any capacity is in effect from September 8, 2009, through December 7, 2009, and the suspension in any supervisory capacity is in effect from September 8, 2009, through March 7, 2010. **(FINRA Case #2008012093801)**

Ali Jabbar Onayo (CRD #4621649, Registered Representative, Blue Island, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Onayo consented to the described sanction and to the entry of findings that he obtained checks totaling \$4,036 made payable to his member firm's insurance affiliate and deposited them into his bank account without the insurance affiliate's permission and consent, thereby misusing the funds. The findings stated that Onayo failed to respond to FINRA requests for information. **(FINRA Case #2008016447801)**

Ari David Pace (CRD #2991826, Registered Representative, Chandler, Arizona) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Pace 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 #2008013190201)**

Michael Keith Paul (CRD #1288689, Registered Representative, Fort Medina, Ohio) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 10 business days. The fine must be paid either immediately upon Paul'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, Paul consented to the described sanctions and to the entry of findings that his member firm warned him not to exercise discretion in customers' variable annuity sub-accounts and required him to sign a warning letter to evidence his understanding of the firm's policies regarding the use of discretion within customer accounts. The findings stated that, nevertheless, Paul exercised discretion in customers' accounts without discussing the transactions with the customers. The findings also stated that Paul had verbal authority from the customers to exercise discretion but no written permission. The findings also included that these transactions did not result in any fees or charges to the customers nor did the transactions yield any compensation for Paul.

The suspension was in effect from August 17, 2009, through August 28, 2009. **(FINRA Case #2007010688901)**

Yishai Zvi Pliner (CRD #4871471, Registered Representative, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 30 days. The fine must be paid either immediately upon Pliner'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, Pliner consented to the described sanctions and to the entry of findings that he falsified IPO eligibility letters after his clients expressed an interest in participating in IPOs, but could not because their IPO eligibility letters had expired. The findings stated that after speaking with his clients, Pliner re-dated or re-completed eligibility letters from prior years and re-filed the falsified letters, pending the receipt of newly-executed eligibility letters. The findings also stated that, after receiving the new letters from clients, Pliner did not send them to his firm because he had already filed the falsified letters.

The suspension is in effect from September 21, 2009, through October 20, 2009.
(FINRA Case #2007010755101)

Patrick Anthony Potopowicz (CRD #1217511, Registered Representative, Princeton, New Jersey) was barred from association with any FINRA member in any capacity and ordered to pay \$26,276.38, plus interest, in restitution to a customer. The sanctions were based on findings that Potopowicz engaged in unauthorized trades in a customer's account. The findings stated that Potopowicz recommended and effected unsuitable and excessive transactions in the customer's account without having reasonable grounds to believe they were suitable in view of the size and frequency of the transactions, the transaction costs incurred and considering the customers' financial situations, investment objectives and needs. (FINRA Case #2006004960901)

Maria Duarte Pumariega (CRD #2419535, Registered Representative, Miami, Florida) was barred from association with any FINRA member in any capacity. Restitution was not ordered because Pumariega repaid the customer. The sanction was based on findings that Pumariega, without permission or authority, converted approximately \$140,000 in customer funds for her own purposes. The findings stated that Pumariega failed to respond to FINRA requests for information. (FINRA Case #2007011884701)

Jason Read Richmond (CRD #2467462, Registered Principal, Los Angeles, 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, Richmond consented to the described sanction and to the entry of findings that he created fictitious trade confirmations and used them to support proof of claims filed in class action lawsuits to recoup settlement claims in excess of \$85,000 to which he was not entitled by falsely presenting himself as a legitimate class member. (FINRA Case #2008013593201)

John Christopher Riqueros (CRD #5060850, Registered Representative, Spanish Fork, Utah) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Riqueros misappropriated \$557.34 from a customer by improperly depositing the customer's insurance premium payment into

his personal business checking account and using the customer's funds for his own use and benefit. The findings stated that Riqueros repaid the customer. **(FINRA Case #2008016040901)**

Russell Alan Roeber (CRD #402458, Registered Principal, Spokane, Washington) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$30,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Roeber'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, Roeber consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without giving his member firm written notice and receiving the firm's approval. The findings stated that Roeber lacked a reasonable basis for recommending installment plan contracts to his customers and made misrepresentations of material fact in connection to his sale of the contracts to his customers. The findings also stated that Roeber provided the customers with misleading and incomplete sale materials that a registered firm principal had not approved prior to their use.

The suspension is in effect from September 8, 2009, through March 7, 2010. **(FINRA Case #2009019041801)**

Joseph Schnaier (CRD #2656314, Registered Representative, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Schnaier consented to the described sanction and to the entry of findings that he failed to appear for FINRA on-the-record interviews. **(FINRA Case #2007011937901)**

Anthony Basir Shakoor (CRD #4068946, Registered Representative, Far Rockaway, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Shakoor'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, Shakoor consented to the described sanctions and to the entry of findings that he posted messages to an electronic bulletin board using the email his member firm assigned to him, which identified him to other users as an employee of his member firm. The findings stated that, since the messages discussed securities, identified Shakoor as a firm employee and were disseminated to the public, he was required to obtain a firm principal's approval but failed to do so. The findings also stated that Shakoor failed to disclose material information in posted messages and/or the messages were misleading because they failed to include a sound basis for the securities, and failed to disclose that he held positions in some of the securities for which he made recommendations. The findings included that Shakoor posted messages that contained claims that were false, exaggerated, unwarranted and/or misleading; and posted messages containing recommendations without providing a reasonable basis, and predictions or projections of future stock.

The suspension is in effect from September 8, 2009, through March 7, 2010. **(FINRA Case #2007009449201)**

Pingping Shu aka Carol Shu (CRD #5404147, Registered Representative, Camarillo, 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 30 days. The fine must be paid either immediately upon Shu'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, Shu consented to the described sanctions and to the entry of findings that she copied and pasted customers' signatures on a client acknowledgement/agreement form without their knowledge, authorization or consent.

The suspension was in effect from September 8, 2009, through October 7, 2009. **(FINRA Case #2008014688601)**

David F. L. Smith (CRD #5269128, Registered Representative, Sandpoint, Idaho) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for two months. The fine must be paid either immediately upon 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 falsified insurance forms when he cut and pasted a registered representative's signature onto forms without the representative's authorization, knowledge or consent, and then submitted the forms to insurance companies.

The suspension is in effect from August 17, 2009, through October 16, 2009. **(FINRA Case # 2008012327701)**

David M. Sohn (CRD #5019782, Registered Representative, Northbrook, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Sohn consented to the described sanction and to the entry of findings that he engaged in private securities transactions for compensation, and failed to provide his member firm with written or oral notice, and failed to obtain the firm's approval to engage in such activity. The findings stated that Sohn failed to respond to FINRA requests for additional information and documentation. **(FINRA Case #2008012988801)**

William Walter Spencer Sr. (CRD #1443074, Registered Representative, Franklin, Tennessee) 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, Spencer consented to the described sanction and to the entry of findings that he engaged in a Ponzi scheme over a 10-year period, borrowing \$1,897,718 from customers and non-customers by inducing them to sign promissory notes, representing that he would pay 10 percent to 12 percent interest and return the investor's principal in periods ranging from six months to one year. The findings stated that Spencer misused the funds because he knew he did not have the liquid

assets or ongoing income necessary to pay interest and return the principal, and used new investor funds to pay existing investors. The findings also stated that, in other instances, Spencer automatically renewed the obligation when the promissory notes became due. The findings also included that Spencer's member firm prohibited loans from customers regardless of the registered representative's relationship with the customer, unless the registered representative obtained prior written approval. Spencer never requested or received approval from his firm to accept the loans. **(FINRA Case #2008013442501)**

James Sharpe Stanton (CRD #831287, Registered Representative, Washington, DC) 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 20 business days. The fine must be paid either immediately upon Stanton'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, Stanton consented to the described sanctions and to the entry of findings that he engaged in outside business activities without providing prompt written notice to his member firm.

The suspension was in effect from September 8, 2009, through October 5, 2009. **(FINRA Case #2008014243301)**

Gary Robert Stremel (CRD #1586775, Registered Representative, Houston, Texas) 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, Stremel consented to the described sanction and to the entry of findings that he exercised discretion in a customer's account without the customer's written authorization or his member firm's acceptance of the account as discretionary. The findings stated that Stremel failed to appear and testify as requested by FINRA. **(FINRA Case #2008013884701)**

Leonard Jackson Taylor (CRD #1292422, Registered Supervisor, Seneca, South Carolina) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$1,000 and suspended from association with any FINRA member in any capacity for 60 days. Without admitting or denying the findings, Taylor consented to the described sanctions and to the entry of findings that he deposited or attempted to deposit checks totaling \$12,200 drawn on his personal bank account into his customers' bank accounts to share in their losses for stock in a company that he solicited his customers to purchase, which decreased significantly in value after the company filed for bankruptcy. The findings stated that the deposits were made without his member firm's or the customers' knowledge or approval.

The suspension is in effect from September 8, 2009, through November 6, 2009. **(FINRA Case #2008012223101)**

Don Edward Terry (CRD #1695161, Registered Representative, Stillwater, Oklahoma) 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, Terry consented to the described sanction and to the entry of findings that he used his member firm's electronic accounting systems to record deposits, totaling

\$144,300, into his personal brokerage account, without actually physically depositing any funds into the account and utilized the fictitious balance to trade in securities for his own account. The findings stated that Terry would not have had sufficient funds with which to fund the securities transactions without the deposits. **(FINRA Case #2008013365901)**

Joyce Hawkins Thomas (CRD #1391090, Registered Representative, North Las Vegas, Nevada) 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 Thomas' 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, Thomas consented to the described sanctions and to the entry of findings that she signed an insurance customer's name on a document without the customer's knowledge, authorization or consent, and subsequently submitted it to the insurance company.

The suspension is in effect from August 17, 2009, through November 16, 2009. **(FINRA Case #2007011277301)**

Reavous Thomas (CRD #5041441, Registered Representative, North Las Vegas, Nevada) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Thomas consented to the described sanction and to the entry of findings that he forged a customer's signature on withdrawal slips and used them to withdraw \$19,500 in cash from the customer's bank account. The findings stated that Thomas made the withdrawals without the customer's knowledge, authorization or consent, and used the cash for personal expenses. **(FINRA Case #2009016952001)**

Michael Alfred Thome (CRD #4728845, Registered Representative, Folsom, California) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity and ordered to pay \$402,137.50, plus interest, in restitution to a customer. Restitution amounts must be paid either immediately upon Thome's reassociation with a FINRA member firm, 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, Thome consented to the described sanctions and to the entry of findings that he received \$435,000 from his former customer to invest in a real estate partnership and in a purported business partnership with Thome. The findings stated that Thome did not invest the funds but misappropriated the funds to pay personal expenses and make purported interest/return of principal payments of \$32,862.50 to the customer. The findings also stated that Thome failed to provide requested information to FINRA. **(FINRA Case #2007010830801)**

John Robert Tufts (CRD #3198904, Registered Representative, Madison, Wisconsin) 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 three months. Without admitting or denying the findings, Tufts consented to the described sanctions and to the entry of findings that he failed to execute buy and sell orders in customers' accounts and engaged in unauthorized transactions in the accounts. The

findings stated that Tufts exercised discretion in a customer's account prior to receiving written authorization from the customer and prior written acceptance from his member firm even though the customer had given Tufts verbal authority to exercise discretion.

The suspension is in effect from September 21, 2009, through December 20, 2009.
(FINRA Case #2007011458801)

Katherine Eileen Weems (CRD #1846606, Registered Representative, Louisville, Kentucky) submitted a Letter of Acceptance, Waiver and Consent in which she was suspended from association with any FINRA member in any capacity for three months and agreed to fully and freely cooperate with FINRA's ongoing investigation, including providing truthful testimony if requested. In light of Weems' financial status, no monetary sanctions were imposed. Without admitting or denying the findings, Weems consented to the described sanctions and to the entry of findings that she improperly accepted about \$250,000 in gifts from a client of a registered representative for whom she was working, in violation of her member firm's prohibition of employees accepting gifts that would create the appearance of compromising business judgment and a conflict of interest. The findings stated that Weems did not obtain her member firm's prior written approval for an exception from the firm's policy.

The suspension is in effect from September 21, 2009, through December 20, 2009.
(FINRA Case #2007010251301)

Don Clair Weir Jr. (CRD #1503363, Registered Principal, Wentzville, Missouri) 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, Weir 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 #2008014938201)

Kirk John Westermann (CRD #4536840, Registered Representative, Lake Wylie, South Carolina) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Westermann consented to the described sanction and to the entry of findings that he deposited a \$290.25 check written by a co-worker made payable to a third party into his personal bank account, and converted the proceeds for his own use and benefit, without the co-worker's knowledge or consent. (FINRA Case #2009016659701)

Michael Lowell Westmoreland (CRD #2105059, Registered Representative, Chicago, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for 30 business days. Without admitting or denying the findings, Westmoreland consented to the described sanctions and to the entry of findings that he exercised discretion in of customers; accounts, pursuant to verbal authority, without the customers' prior written authorization and his member firm's prior written acceptance of the accounts as discretionary.

The suspension was in effect from August 17, 2009, through September 28, 2009.
(FINRA Case #2007011858001)

Decision Issued

The Office of Hearing Officers (OHO) issued the following decision, which has been appealed to or called for review by the NAC as of August 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.

Jonathan Michael Skiba (CRD #2265023, Registered Representative, Frankenmuth, Michigan) was fined \$5,000, suspended from association with any FINRA member in any capacity for one year and required to pay \$14,909.49 in restitution. The sanctions were based on findings that Skiba liquidated customer money market mutual funds and invested the proceeds in another variable annuity but used the extra step of placing the funds in a money market mutual fund so that it would appear that the source of the annuity purchase was a money market fund, not another annuity. The findings stated that Skiba was thus able to replace his customers' annuities without his member firm's discovery, and provided false answers on purchase applications regarding the source of the funds for the new annuities purchases. The findings also stated that Skiba failed to document the replacement sales contrary to his firm's procedures because he believed his firm would not approve the replacements. The findings also included that, because the customers did not sign the replacement forms, the customers were not informed of the increased surrender charges and the firm did not have the opportunity to review the replacements to determine if they were suitable. FINRA found that, because the transactions were not treated as replacements, Skiba received substantial commissions totaling \$13,136.96 as well as production credits entitling him to benefits such as insurance, pension benefits, 401(k) benefits or trips. FINRA also found that the customers incurred surrender charges totaling \$22,659.87.

This decision has been called for review by the NAC. The sanctions are not in effect pending consideration of the review. **(FINRA Case #E8A2004072203)**

Complaints Filed

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

Jon Erving Berg (CRD #2399821, Registered Representative, St. Paul, Minnesota) was named as a respondent in a FINRA complaint alleging that he engaged in unsuitable and excessive trading in customers' accounts, resulting in losses for his customers. The complaint alleges that Berg failed to make reasonable efforts to obtain information concerning his customers' financial status, needs or investment objectives that is used or considered reasonable in making recommendations to customers. The complaint also alleges that Berg recommended and effected transactions in customers' accounts without having reasonable grounds for believing that the transactions were suitable for his customers in view of the size and frequency of the transactions, the nature of their accounts and their needs. **(FINRA Case #2005000171202)**

Jason Marc Pinsky (CRD #2518458, Registered Representative, Manhasset, New York) was named as a respondent in a FINRA complaint alleging that he effected unauthorized transactions in a customer's account without the customer's knowledge or consent. **(FINRA Case #2007011534801)**

Drumond Ricardo Roby (CRD #4078255, Registered Representative, Ferndale, Michigan) was named as a respondent in a FINRA complaint alleging that he changed the names and addresses of firm customers whose accounts were inactive to his name and home address, without the customers' knowledge and approval. The complaint alleges that Roby caused and/or directed the funds in the accounts, totaling approximately \$17,900, to be disbursed to him by causing checks made payable to himself to be issued from the accounts and sent to his home, thereby misusing the funds for some purpose other than for the customers' benefit. The complaint also alleges that Roby failed to respond to FINRA requests for information and documentation. **(FINRA Case #2007010784301)**

Douglas Richard Smith (CRD #1845966, Registered Principal, Newbury Park, California) was named as a respondent in a FINRA complaint alleging that, without the customer's knowledge, authorization and consent, he effected the surrender and liquidation of a variable annuity in the customer's account, and used the proceeds to purchase a variable annuity issued by another insurance company for the customer's account. The complaint alleges that, to effect the unauthorized transactions for the customer, Smith, without the customer's knowledge, authorization and consent, affixed, or caused to be affixed, the customer's signature and/or initials on documents. The complaint also alleges that Smith stamped the document with the firm's medallion signature guarantee stamp and placed his signature on the stamp signature line, guaranteeing the customer's signature as genuine. **(FINRA Case #2008012211601)**

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

Kingside Partners, LLC
New York, New York
(August 27, 2009)

Nexcore Capital, Inc.
San Diego, California
(August 18, 2009)

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

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

Jackson Kohle & Co.
San Clemente, California
(August 10, 2009)

Firm Suspended for Failing to Pay Arbitration Fees Pursuant to FINRA Rule 9553

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

Eastbrook Capital Group LLC
New Brunswick, New Jersey
(August 26, 2009)

Firm Suspended for Failure to Meet Qualification Standards Pursuant to FINRA Rule 9555

Global Crown Capital, LLC
San Francisco, California
(August 21, 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.)

Frank Louis Boccio
Howard Beach, New York
(August 27, 2009)

Herbert Tyrone Hunt
Lyndhurst, Ohio
(August 10, 2009)

Jereis Elias Khawaja
Houston, Texas
(August 25, 2009)

Harvey Mitchell Schwartz
Miami, Florida
(July 15, 2008 – August 26, 2009)

Robert Eugene Strong
New York, New York
(August 18, 2009)

Individual Barred Pursuant to FINRA Rule 9552(h)

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

Alfred Mirza Allos
Commerce Township, Michigan
(August 10, 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.)

Robert Stephen Glynn
Central Islip, New York
(August 7, 2009)

Miles C. King
Gresham, Oregon
(August 6, 2009)

Jeffrey Alan Lee
Oak Park, California
(June 1, 2009 – August 12, 2009)

Ronald Scott Phillips
Henderson, Nevada
(August 3, 2009)

Gregory Stephen Profeta
Monterey, California
(August 31, 2009)

Eric Todd Seiden
Boca Raton, Florida
(August 13, 2009)

Brenda Jean Sherrell
Hermiston, Oregon
(August 6, 2009)

Robert William Wade
Albuquerque, New Mexico
(August 28, 2009)

John Wingo Wright
Capistrano Beach, California
(August 20, 2009)

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

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

Henry Leo Broussard Jr.
St. Louis, Missouri
(August 18, 2009)

Louis Gary Cesario
Nesconset, New York
(August 6, 2009)

Donald James Dormody
Medina, Ohio
(August 6, 2009)

Joseph Stephen Fabian
Gobles, Michigan
(August 6, 2009)

Michelle Murphy Feeley
New York, New York
(August 14, 2009 – October 2, 2009)

Patrick Joseph Leahy
Staten Island, New York
(August 28, 2009)

John Anthony Marrone
Pacific Palisades, California
(August 18, 2009)

Kenneth George Mueller
Bowling Green, Kentucky
(August 18, 2009)

Joseph John Rentler
Carnegie, Pennsylvania
(August 28, 2009)

Mark Rossel
Long Beach, California
(August 18, 2009)

William Charles Warnky
Dallas, Texas
(August 18, 2009)

FINRA Hearing Panel Expels Legacy Trading Co., Bars Firm's CEO, Imposes Fine of More Than \$1 Million

Panel Finds Respondents Made Almost \$900,000 from Illegal Short Sales, Firm and its President Gave FINRA False Information During Investigation

Firm, President Appeal Ruling to FINRA's National Adjudicatory Council

A Financial Industry Regulatory Authority (FINRA) hearing panel has expelled Legacy Trading Co., LLC of Edmond, OK, and permanently barred the firm's CEO and owner, Mark Uselton, from the securities industry for a wide range of misconduct—including violations of short selling rules, failure to maintain required books and records, and for providing false information and refusing to provide testimony to FINRA. The hearing panel also fined Legacy and Uselton more than \$1 million, finding that they made almost \$900,000 in profits from the illegal short sales.

Legacy and Uselton have appealed the ruling to FINRA's National Adjudicatory Council (NAC). Sanctions against both respondents have been stayed pending a ruling from the NAC. FINRA's Department of Enforcement filed its initial complaint against Legacy and Uselton in July 2007.

In its decision, the hearing panel found that Legacy and Uselton committed "egregious" violations of the short selling rules in connection with more than 2,000 transactions in 2004 and 2005. A short sale is the sale of a security that the seller does not own, or any sale that is consummated by the delivery of a security borrowed by the seller. FINRA and Securities and Exchange Commission (SEC) rules require that short sellers make an affirmative determination that they can borrow the securities for delivery by settlement date, unless the seller is a broker-dealer engaged in bona fide market making activities. The hearing panel found that Legacy and Uselton effected 2,192 short sales in connection with speculative proprietary trading activities that did not qualify as bona fide market making activities. The panel found that the violations were "an egregious case, involving willful misconduct."

The hearing panel also found that Legacy and Uselton provided false information to FINRA about a number of different issues, including the source of funds for a \$300,000 capital contribution to the firm. In addition, Legacy and Uselton falsely represented that the firm did not use email for business purposes and falsely claimed that a bank account in the name of Legacy's holding company was not related to Legacy's business, when in fact it was used to pay virtually all of Legacy's financial obligations.

In addition, the hearing panel found that Uselton initially refused to provide testimony to FINRA, and later provided false testimony regarding his and Legacy's relationship with a firm that Uselton's father and cousin owned and operated. The panel found that Uselton falsely claimed that neither he nor Legacy had any business relationship with that entity.

The panel also found that Legacy and Uselton's failure to maintain required books and records impeded FINRA's investigation into the firm's activities, including its investigation into Legacy's relationship with the entity that Uselton's father and cousin owned and operated.

For these violations, the hearing panel expelled Legacy from the securities industry, permanently barred Usselton from working for a securities firm and fined the respondents a total of \$1,007,035.

Those sanctions have been stayed pending resolution of Legacy's and Usselton's appeal to the NAC. The NAC is a 14-person committee composed of seven industry and seven non-industry members that decides appeals from disciplinary, membership and exemptions decisions and rules on statutory disqualification applications. NAC decisions may be appealed to the SEC.

Ameritas Fined \$100,000 for Use of Misleading College Funding Plans to Sell Variable Life Products

Plans Recommended Using Funds Obtained From Mortgage Refinancings and Home Equity Loans

FINRA Also Suspends Broker for Nine Months, Fines Her \$60,000

The Financial Industry Regulatory Authority (FINRA) has fined Ameritas Investment Corp., of Lincoln, NE, \$100,000 and has suspended and fined one of its brokers for inducing customers to take on additional mortgage and/or home equity debt in order to purchase variable universal life insurance policies (VULs). Those policies were pitched to customers as mechanisms for funding college expenses and retirement.

Ameritas was sanctioned for failing to adequately supervise broker Nancy Ziering, who was based in New Jersey, and for advertising violations related to her financial plans. FINRA found that the financial plans she created and were misleading and that her recommendations to customers to purchase VUL policies were unsuitable. Ziering was fined \$60,000 and suspended for nine months.

"Brokerage firms must exercise vigilance when their brokers recommend that customers use mortgage proceeds to purchase securities," said Susan L. Merrill, Executive Vice President and Chief of Enforcement. "FINRA will aggressively pursue firms and individuals who use misleading financial plans to induce customers to purchase securities, particularly when those plans propose that customers refinance their homes or take out home equity loans to pay for the purchase of securities. Their home is the biggest and most valuable asset that most Americans have. They should not be putting that asset at risk to buy securities."

FINRA found that Ziering used misleading financial plans with more than 220 customers whom she recruited through her separate college-planning business, Madison Financial Aid Consultants, between October 2003 and December 2005. Through Madison Financial Aid Consultants, she gave seminars on college planning at schools and other locations for parents with children approaching college age. Following her presentations, she would offer to meet with parents to discuss funding for college and other financial matters.

According to FINRA, the financial plans prepared by Ziering were extremely complicated and confusing and, to be successful, required customers to adhere strictly to all aspects of a detailed plan for 20 years. Although the plans were marketed as a way to demonstrate how customers could save for college and retirement, in nearly every instance they recommended that the customer purchase a VUL policy issued by an affiliate of Ameritas, using money obtained from a mortgage refinancing or home equity loan. Over 90 of the customers who received the financial plans purchased one or more VULs from Ameritas.

FINRA found that Ameritas became aware of Ziering's use of the misleading plans, but failed to take sufficient action to ensure that she did not continue to use the plans. FINRA found that Ameritas also failed to adequately supervise Ziering's recommendations to use proceeds from mortgage refinancings or home equity loans to purchase VULs.

FINRA found that Ziering's recommendations to six customers to purchase VULs were unsuitable. For instance, one customer had provided Ziering with information showing that she and her husband were spending more on expenses than they received in income, including nearly \$80,000 in credit card and other debt, in addition to first and second home mortgages, car loans and anticipated college expenses for a child about to enter college. However, Ziering recommended that the customer purchase a VUL policy and take on the additional burden of funding the policy with large annual premium payments. In another instance, where a customer had significant assets to pay for college and also owned life insurance policies, Ziering nonetheless recommended the same plan for that customer, including the refinancing of a home mortgage and the purchase of a VUL.

Prior to FINRA's action, Ameritas rescinded the VUL policies purchased by the six customers who received unsuitable recommendations and refunded their premium payments.

In settling these matters, Ameritas and Ziering neither admitted nor denied the charges, but consented to the entry of FINRA's findings.

Ziering's suspension was in effect from October 6, 2008, through July 5, 2009.

FINRA Fines Credit Suisse \$275,000 for Failing to Comply With Terms of Global Research Analyst Settlement

Firm Failed to Make Independent Research Available to Its Customers

The Financial Industry Regulatory Authority (FINRA) has imposed a fine of \$275,000 against Credit Suisse Securities (USA), LLC, for failing to comply fully with one of the key terms of the 2003 Global Research Analyst Settlement.

That settlement, which was between regulators and 13 leading financial services firms, required those firms to make independent research available to their customers. The requirement was intended to restore investor confidence in a research industry badly tarnished by the firms' misconduct.

“One of the primary purposes of the Global Settlement’s requirement to provide independent research is to ensure that individual investors could obtain reliable, objective investment advice,” said Susan Merrill, Executive Vice President and Chief of Enforcement. “By failing to comply fully with this undertaking, on multiple occasions and for a prolonged period of time, Credit Suisse undermined this important goal.”

Beginning as early as 2004, Credit Suisse failed on a number of occasions to post all of the required, current independent research to its Web site. For instance, the firm posted independent research for companies not covered by Credit Suisse and was delayed in providing independent research in a timely manner after offerings. Following the discovery of these initial problems, the firm failed to implement effective measures to detect and prevent additional failures. As a result, the firm’s lack of adequate safeguards, controls and oversight caused Credit Suisse to experience three significant failures to make independent research available to its customers.

First, from April 2007 to September 2007, Credit Suisse failed to make available to its customers 32,500 required independent research reports, while some of the research reports that were posted were not the most currently available at the time. Separately, from December 2004 to October 2007, Credit Suisse failed to post independent research from certain research providers for 224 of its covered companies, although independent research coverage by other providers remained available for all but 45 of these companies. The firm failed to detect this deficiency for nearly three years. Finally, beginning at various points from September 2006 to July 2008, Credit Suisse failed to post required independent research for 35 additional covered companies because the firm neglected to deactivate a filtering system in its research database that excluded certain companies from its research website.

The requirement to provide customers with independent research was part of the Securities and Exchange Commission’s final agreement with Credit Suisse and was incorporated into a separate agreement with FINRA.

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

FINRA Bars AGSI Broker for Misappropriating \$90,000 Inheritance From Two Sisters

The Financial Industry Regulatory Authority (FINRA) has barred Richard L. Wood, a Miamisburg, Ohio, broker, from the securities industry for stealing a \$90,000 inheritance two sisters received from a deceased aunt and using it for his own purposes.

FINRA also found that Wood created and sent false account statements in order to cover up his theft. At the time, Wood worked for American General Securities Inc.

“All investors are entitled to rely upon brokers to uphold high standards of commercial honor in their dealings with them,” said Susan L. Merrill, Executive Vice President and Chief of Enforcement. “Preying upon these two sisters by stealing from their accounts and then doctoring documentation with the intent to mislead them is an egregious breach of ethical standards.”

FINRA found that in August 2006, one of Wood's customers passed away, leaving the two victims, her nieces, as beneficiaries of her estate. While helping liquidate the estate, Wood recommended that each of the sisters open a brokerage account with him and invest in bonds. But Wood did not open the brokerage accounts or invest in bonds. Instead, he misappropriated the funds by instructing the sisters to make their checks payable to an entity under Wood's sole control — STL Financial, Inc. — instead of payable to a bona fide brokerage firm.

In order to cover up his theft of the funds, Wood provided each sister with a false account number for a fictitious brokerage account. In late 2007, one of the sisters became concerned that she had received no documentation regarding the account and investment in bonds. She contacted Wood who assured her that she would receive written confirmation. After repeated requests, Wood created a false customer account statement and sent it to her, following up with additional fictitious statements on at least two other occasions over the next six months.

FINRA found that Wood used the misappropriated funds for his own purposes. He later returned stolen funds to one of the customers. The other sister was reimbursed by the firm during FINRA's investigation.

Wood agreed to a permanent bar from the securities industry without admitting or denying the alleged misconduct, but consenting to the entry of FINRA's findings.

FINRA Expels Maximum Financial for Net Capital, AML, Other Violations While Engaging in Retail Foreign Currency Exchange Business

CEO Barred as a Principal, Suspended for Nine Months in All Capacities

The Financial Industry Regulatory Authority (FINRA) has expelled Maximum Financial Investment Group, Inc. of Southfield, MI, for violations arising out of its retail foreign currency (forex) business, as well as for repeated violations of FINRA registration and related rules.

FINRA also permanently barred Maximum's Chief Executive Officer and Chief Compliance Officer, Christopher T. Paganis, from ever serving in any principal capacity at a securities firm and suspended him from associating with a securities firm in any capacity for nine months. No fine was imposed because Paganis evidenced an inability to pay.

"The growing retail foreign currency market presents significant risks to individual investors," said Susan L. Merrill, FINRA Executive Vice President and Chief of Enforcement. "Firms that participate in forex activities must be diligent in adhering to all applicable rules in order to protect their customers' financial interests. The failures of Maximum and its CEO to comply with net capital, customer protection and anti-money laundering rules exposed customers to unnecessary risks."

FINRA found that in September 2007, Maximum entered into an agreement with a non-registered entity—Boston Trading & Research (BTR)—to engage in a retail forex trading business. Maximum agreed to act as a counterparty to the forex transactions. Beginning in January 2008, and continuing through May 2008, more than \$15 million in customer funds to be used for retail forex transactions were deposited in Maximum's bank accounts. The receipt of these funds created a liability for Maximum, which it failed to record on its own books and records. This failure led to the firm having insufficient minimum net capital, in violation of federal securities laws and FINRA rules. The firm also failed to calculate the amount it had to deposit on behalf of the forex customers in a reserve bank account to safeguard the funds. In addition, FINRA found that Maximum failed to establish systems and procedures to monitor for money laundering while engaging in the forex transactions.

FINRA also found that on three occasions, Maximum failed to timely file an application for approval of a material change in its business. First, the firm did not file an application prior to engaging in the forex business, which constituted a material change of business operations requiring FINRA approval. Second, over a two-month period, Maximum increased the number of its representatives working at the firm by 180%. Despite being repeatedly told by FINRA that an application for approval of such an increase had to be submitted 30 days before the change, Maximum did not file its application until seven months after the firm had already hired the new representatives. Despite being alerted that FINRA intended to bring disciplinary action against the firm for not timely filing the application, Maximum allowed the representatives to remain at the firm for another two months. Finally, Maximum failed to file an application with FINRA before transferring 100 percent of its assets to another FINRA registered broker-dealer.

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

Paganis' suspension is in effect from September 8, 2009, through June 7, 2010.

FINRA Bars Citigroup Sales Assistant for Taking More Than \$850,000 From Customers, Falsifying Records, Making Unauthorized Trades

Broker Targeted Accounts of Elderly and Vulnerable Clients; Citigroup Has Paid Restitution to Customers

The Financial Industry Regulatory Authority (FINRA) has barred Tamara Lanz Moon of Redwood City, CA, from the securities industry for wrongfully taking over \$850,000 in funds from at least 22 customers, including her own father. Moon was also charged with falsifying numerous account records, engaging in unauthorized trades in customer accounts and related recordkeeping violations.

Moon's misconduct occurred over an eight-year period ending in March 2008, while she was working as a sales assistant for Citigroup Global Markets at the firm's Palo Alto, CA, branch office. Citigroup has compensated customers for losses resulting from Moon's misconduct.

FINRA found that Moon targeted elderly, ill or otherwise vulnerable customers whom she believed were unable to monitor their accounts. Victims of Moon's scheme included elderly customers (including a senior with Parkinson's disease), an American diplomat and even her own father. Moon forged signatures on letters of instruction requesting unauthorized address changes, trades and transfers between and to accounts controlled by Moon for the purpose of paying her personal expenses, remodeling her home and making personal investments in other real estate properties.

"Firms have an obligation to supervise all of their personnel, including sales assistants who have access to confidential customer account information," said Susan L. Merrill, FINRA Executive Vice President and Chief of Enforcement. "The sales assistant in this case violated investors' trust by using her knowledge of customer accounts to prey upon the firm's most vulnerable customers."

In one case, FINRA found that Moon misappropriated approximately \$26,000 belonging to an elderly widow. In November 2006, following the death of the customer's husband, Moon helped the widow consolidate her holdings into one Citigroup account. In June 2007, when the widow was 83 years old, Moon began moving money from the widow's Citigroup account—without the widow's authorization—to accounts owned by Moon and to accounts owned by other Citigroup customers to replace funds Moon had previously stolen from those accounts.

To further her scheme, Moon falsified documents requesting address changes. On May 21, 2007, the widow's account appeared on an internal report that indicated a discrepancy between the address on the widow's account and her address in government and telephone directories. Moon explained the discrepancy to Citigroup by falsely stating that the "client moved into a nursing home."

Moon's misconduct was not limited to taking funds belonging to elderly widows. Moon misappropriated approximately \$55,000 belonging to an American diplomat working overseas, who held custodial accounts at Citigroup for his two daughters, and forged his signature on authorizations to change his address so account statements wouldn't reach him.

Moon also misappropriated funds belonging to her own father. In January 2006, Moon created a phony account for her father, without his knowledge or consent, and used this account to misuse approximately \$30,000 belonging to her father and approximately \$250,000 belonging to other Citigroup customers. On Jan. 20, 2006, Moon forged her father's signature on a letter of authorization to Citigroup, changing the address on the account to keep account statements from being sent to her father. From August 2006 to March 2008, Moon requested and processed unauthorized cash transfers into her father's phony account from other Citigroup customers totaling over \$250,000. During this same timeframe, Moon—again forging her father's signature—disbursed the funds from the account for her own personal use.

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

FINRA Bars Brokers in Multi-Million-Dollar Ponzi Schemes

The Financial Industry Regulatory Authority (FINRA), in separate enforcement actions, it has permanently barred two brokers for running multi-million-dollar Ponzi schemes that victimized a wide range of investors—including elderly individuals, mentally and physically impaired individuals, church members and even family friends.

FINRA barred Oren Eugene Sullivan, Jr., of Rock Hill, SC, for misappropriating approximately \$3.7 million in a decades-long Ponzi scheme involving more than 30 clients—including 15 widows, two Alzheimer's victims and an individual with developmental impairments. At least eight of the affected clients were over 80 years old and another four were over 70 years of age. Numerous victims considered Sullivan a close family friend.

FINRA also barred William Walter Spencer, Sr., of Franklin, TN, who “borrowed” nearly \$2 million from elderly members of his church and from customers of his employing broker-dealer, Wiley Bros.—Aintree Capital, LLC.

“The protection of seniors and other vulnerable investors from unscrupulous brokers remains one of FINRA's highest priorities, and we will continue to identify and expel those within our jurisdiction who take unfair advantage of their clients,” said Susan L. Merrill, FINRA Executive Vice President and Chief of Enforcement. “The misconduct of these brokers was nothing short of egregious—and their financial exploitation of the elderly, the infirm and people who considered them trusted friends shocks the conscience.”

In the case of Sullivan, who was a broker for NYLife Securities, FINRA found that from late 1988 to October 2008, Sullivan obtained money for personal use by leading his victims to falsely believe that they were investing in promissory notes or other legitimate financial products issued by NYLife or its affiliates. Most of the victims had already invested in one or more NYLife products sold by Sullivan. In exchange for the money he took from customers, Sullivan usually provided a one-page “note” stating the amount of principal and promising an annual interest rate, which ranged from 6 percent to 12 percent. Rather than disclosing that Sullivan was borrowing the money for his own personal use, the notes stated that the borrower was an entity named “IFP.” “IFP” was a term Sullivan created that stood for “insurance financial product” or “insurance financial professional,” but no valid corporation or other legal entity named “IFP” ever existed.

As part of his deception, Sullivan asked clients to pay for the “notes” with personal checks made out to “IFP-NYL” or “IFP-NYLife.” Notwithstanding the fact that the checks did not list Sullivan as the payee, his bank, a well-known institution with millions of customers and thousands of branches, allowed him to deposit the proceeds of the checks into his own account. Sullivan then used the money for personal expenses, including the purchase of cars for his children and the payment of his children's tuition at private colleges. Eventually, Sullivan found it necessary to take money from newer victims to meet the obligations owed to earlier victims.

In total, Sullivan obtained approximately \$3.7 million pursuant to his scheme and owed approximately \$2.2 million at the time he was caught. NYLife has reimbursed the \$2.2 million to the affected customers.

Sullivan's scheme came to light when one customer and her daughter discovered that he had misappropriated \$10,000 given to him for the purchase of variable annuities for the benefit of her great-grandchildren. Instead of investing the money as promised, Sullivan used the funds to pay for his son's wedding. Over a period of approximately three years, the customer had never received a statement showing the purchase or the investment performance of the variable annuities despite numerous requests. Ultimately, the customer and her daughter visited Sullivan at his office and demanded to see the statements. In response, Sullivan attempted to give the customer an interest-bearing note for the \$10,000. He also attempted to avoid being reported to his superiors by giving the customer a letter he fabricated and fraudulently claimed to have been written by his firm's compliance officers. The letter falsely stated that he had already been reprimanded for his misappropriation. The customer's daughter was suspicious of the letter and contacted Sullivan's superiors, who then commenced an internal investigation and discovered Sullivan's vast Ponzi scheme.

In the second case, from December 1997 to May 2008, Spencer induced investors to invest in promissory notes falsely promising rates of return 10 to 12 percent higher than rates available on traditional investments. In all, there were 234 such transactions and 80 percent of the investors were elderly members of his church community who had previously invested their funds in certificates of deposit or savings accounts. FINRA found that Spencer knew at the time that he procured the loans that he did not have the liquid assets or ongoing income necessary to pay the interest and return the principal to the investors. Spencer failed to repay many of the individuals as promised and used the proceeds of new loans to satisfy existing loans.

All of the individuals from whom Spencer borrowed funds were of modest means. For example, one customer was a 62-year-old school bus driver for special needs children who loaned Spencer \$60,000 after her husband's death. Spencer used the loan to repay other customers. Another customer faced the threat of foreclosure on his home due to Spencer's failure to repay the \$12,250 loan he made. To avert the pending foreclosure, Spencer used funds from another customer to make the payment owed. An 80-year-old customer loaned Spencer \$20,500. She later needed to make repairs to her home, but was unable to do so because of Spencer's failure to repay the principal and interest due.

In settling these matters, neither Spencer nor Sullivan admitted nor denied the charges, but consented to the entry of FINRA's findings.