

Disciplinary and Other FINRA Actions

Firm Expelled

iTRADEdirect.com Corp. (CRD® #18281, Boca Raton, Florida) was expelled from FINRA® membership. The sanction was based on findings that the firm's registered representatives cold-called potential customers from a boiler room, opened accounts for people who never agreed to be firm customers and made unauthorized trades for those purported customers, as well as for their actual customers; the firm intentionally failed to disclose to its customers that it was engaging in unauthorized trading. The findings stated that the firm's brokers predicted substantial increases in stock prices, often to specific levels, and the firm issued false trade confirmations and made other efforts to induce potential customers to pay for unauthorized transactions in furtherance of its fraudulent scheme. The findings also stated that the firm, through its registered representatives, made recommendations to customers without obtaining the necessary information, including investment objectives, risk tolerance, financial condition and investment experience, to make suitability determinations. The findings also included that the firm, through its registered representatives, created false new account documentation, including falsified new account information forms and new account applications that set forth false, inaccurate and baseless information regarding customers' income, net worth, investment experience, risk tolerance and social security numbers.

FINRA found that the firm purchased securities on margin without the customers' authorization. FINRA also found that the firm received numerous customer complaints but failed to report most of them. In addition, FINRA determined that the firm's books and records did not accurately reflect all of its actual and contingent liabilities; failed to accurately record and report its net capital, net capital requirement and excess net capital; operated while in net capital deficiency and failed to provide notice to the Securities and Exchange Commission (SEC) of its net capital deficiencies. Moreover, FINRA found that the firm's chief compliance officer (CCO) refused to allow FINRA staff to obtain any of its electronic books and records during a visit to the firm's Long Island office until the following week when the staff discovered that at least one computer had been disabled and other files had been tampered with. Furthermore, FINRA found that the staff was unable to access the hard drive of one computer maintained by a firm employee responsible for maintaining the firm's computer systems because the hard drive had been encrypted and the employee claimed he was unable to decrypt it. ([FINRA Case #2009016159101](#))

Reported for September 2011

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

Firm and Individuals Sanctioned

Century Pacific Securities, Inc. (CRD #113698, Kirkland, Washington), Shuming Chang aka Anthony Chang (CRD #2109185, Registered Principal, Renton, Washington) and Asa Williams (CRD #2233649, Registered Principal, Bellevue, Washington) submitted an Offer of Settlement in which the firm was censured, fined \$16,000, of which \$8,000 was jointly and severally with Chang and \$4,000 was jointly and severally with Williams, and ordered to pay \$44,082.58, plus interest, in restitution to a customer. FINRA imposed a lower fine after it considered, among other things, the firm's revenue and financial resources. Chang was fined an additional \$12,000 and suspended from association with any FINRA member in any principal or supervisory capacity for 45 days. Williams was fined an additional \$16,000, suspended from association with any FINRA member in any capacity for 20 business days and ordered to pay \$178,056.44, plus interest, in restitution to the customer.

Without admitting or denying the allegations, the firm, Chang and Williams consented to the described sanctions and to the entry of findings that the firm, acting through Williams, charged a customer a markup for a collateralized mortgage obligation (CMO) that was unfair, taking into consideration all relevant circumstances, including market conditions with respect to such security at the time of the transaction, the expense involved, the fact that the firm was entitled to a profit, the type of security involved, the availability of the security in the market, the price of the security, the amount of money involved in the transaction, disclosure of the markup to the customer and the nature of the firm's business. The findings stated that Williams sent a document he authored to the customer's agent that compared CMOs to U.S. Treasury bills and failed to disclose that a CMO's yield and average life will fluctuate depending on the actual rate at which mortgage holders prepay the mortgages underlying the CMO and changes in current interest rates. The findings also stated that the firm, acting through Williams, sold a CMO to a second non-institutional customer and that before the CMO sales, Williams failed to offer the customers education material regarding CMOs. The findings also included that Williams sent correspondence to prospective investors regarding a private placement of common stock and warrants; that the communications were not fair and balanced; that they did not provide a sound basis for evaluating the facts in regard to the securities; and that Williams made false, exaggerated, unwarranted or misleading statements and claims and predicted or projected performance.

FINRA found that Williams engaged in a private securities transaction for selling compensation and failed to provide any prior written notice to his member firm. FINRA also found that Chang was the firm principal responsible for supervising Williams, but that the firm, acting through Chang, failed to adequately and properly supervise Williams to ensure compliance with applicable rules and regulations. FINRA determined that Chang knew, or should have known, that a CMO markup was unfair but took no steps to cancel or re-bill the trade or to issue a credit to the customer. Moreover, FINRA found that Chang gave Williams permission to engage in private securities transactions and did not require him to provide the firm with prior written notice, and that after he had learned that Williams had participated in the sale of a stock, he did not take any steps to record the transaction

on the firm's books and records and did not take any disciplinary action against Williams. Furthermore, FINRA found that Chang did not obtain or review Williams' securities-related correspondence. The findings also stated that the firm, acting through Chang, failed to implement its written supervisory procedures (WSPs) regarding markups, review of correspondence, branch inspections and heightened supervision. The findings also included that the firm maintained certain records in electronic formats and failed to notify FINRA prior to employing electronic storage media.

FINRA found that the firm failed to preserve electronic mail correspondence in a non-rewriteable, non-erasable format and failed to store, separate from the original, a duplicate copy of its electronic records. FINRA also found that the firm did not have in place an audit system providing for accountability regarding inputting of records to its electronic storage media, exclusively used electronic storage media for some or all of its record preservation, did not print electronic mail correspondence in hard copy form, and did not retain the services of a third party with access to its electronic storage media to take steps to provide access to those media or to file with FINRA an undertaking to provide such access. In addition, FINRA determined that the firm did not have available, for examination by the SEC or FINRA, facilities for immediate, easily readable projection or production of micrographic media or electronic storage media images and for producing easily readable images.

Chang's suspension is in effect from September 6, 2011, through October 20, 2011.
Williams' suspension was in effect from August 8, 2011, through September 2, 2011.
([FINRA Case #2008014271401](#))

Firms Fined, Individuals Sanctioned

Ayre Investments, Inc. (CRD #44499, Agawam, Massachusetts) and Timothy Tilton Ayre (CRD #2091556, Registered Principal, Agawam, Massachusetts) submitted an Offer of Settlement in which the firm was censured, fined \$10,000 and undertakes to review its supervisory systems and WSPs for compliance with FINRA rules and federal securities laws and regulations, including those laws, regulations and rules concerning the preservation of electronic mail communications, and certify in writing to FINRA, within 90 days, that the firm has in place systems and procedures to achieve compliance with those rules, laws and regulations. Ayre was fined \$10,000 and suspended from association with any FINRA member in any principal capacity for two months. FINRA imposed a lower fine against the firm after it considered, among other things, the firm's revenues and financial resources.

Without admitting or denying the allegations, the firm and Ayre consented to the described sanctions and to the entry of findings that the firm, acting through Ayre, its CCO, failed to establish and maintain a supervisory system and establish, maintain and enforce WSPs to supervise the activities of each registered person that were reasonably designed to achieve compliance with the applicable rules and regulations related to CRD pre-registration checks, exception report maintenance and review, supervisory branch office inspections,

approval of transactions by a registered securities principal, annual compliance meeting, financial and operations principal (FINOP) review of checks received and disbursements blotter, NASD® Rule 3012 annual report to senior management, review and retention of correspondence, Regulation S-P and outsourcing arrangements. The findings stated that the firm's WSPs were purchased from a third-party vendor and were intended to meet the needs of any broker-dealer, regardless of the firm's size or business. The findings also stated that the firm, acting through Ayre, failed to tailor the template WSPs to address the firm's particular business activities. The findings also included that with respect to the areas identified above, the firm's WSPs failed to describe with reasonable specificity the identity of the person who would perform the relevant supervisory reviews and how and when those reviews would be conducted; and with respect to the maintenance of electronic communications, the firm completely failed to establish, maintain and enforce any supervisory system and/or WSPs reasonably designed to ensure that all business-related emails were retained.

FINRA found that the firm, acting through Ayre, violated the terms of a Letter of Acceptance, Waiver and Consent (AWC) by failing to file a required written certification with FINRA regarding the firm's WSPs within 90 days of the issuance of the AWC. In addition, FINRA determined that despite being given multiple reminders and opportunities by FINRA staff during a routine examination to file the certification, the firm and Ayre have yet to file the certification the AWC required. Moreover, FINRA found that the firm only had one registered options principal (ROP) who was required to review and approve all of the firm's option trades; for more than half a year, however, the ROP resided in another state and did not work in the firm's main office. Furthermore, FINRA found that the firm's WSPs did not address or explain how the ROP, given his remote location, was to accomplish and document the contemporaneous review and approval of all options trades firm customers placed; the firm executed approximately 450 options transactions, none of which the ROP approved. The findings also stated that the firm failed to maintain and preserve all of its business-related electronic communications, and therefore willfully violated Securities Exchange Act Rule 17a-4. The findings also included that the firm permitted its registered representatives to use email to conduct business when the firm did not have a system for email surveillance or archiving.

FINRA found that each firm representative maintained electronic communications on his or her personal computer or arranged for the retention of electronic communications in some other fashion, and the firm relied on representatives to forward or copy their business-related emails to the firm's home office for retention. FINRA also found that not all of the representatives' business-related emails were forwarded to the home office, and the firm did not retain the electronic communications that were not forwarded or copied to the firm's home office; as a result, the firm failed to maintain and preserve at least 10,000 business-related electronic communications representatives sent to or received.

The suspension is in effect from August 15, 2011, through October 14, 2011. ([FINRA Case #2009016252601](#))

Searle & Co. (CRD #13035, Greenwich, Connecticut) and Robert Southworth Searle (CRD #839312, Registered Principal, Greenwich, Connecticut) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$47,500, of which \$10,000 was jointly and severally with Searle. Searle was suspended from association with any FINRA member in any principal capacity for 10 business days. Without admitting or denying the findings, the firm and Searle consented to the described sanctions and to the entry of findings that although the firm sought and received permission to conduct its private placement activity, it failed to timely amend its Application for Broker-Dealer Registration (Form BD), as it did not identify this business on its Form BD until years later. The findings stated that the firm, acting through Searle, the firm's president and CCO failed to establish, maintain and enforce an adequate system and written procedures reasonably designed to supervise its placement business; and failed to adequately supervise the placement business conducted by a former registered representative who conducted firm business at an unregistered office. The findings also stated that the firm failed to adequately ensure that its ledgers or other records accurately reflected all of the firm's assets, liabilities, income and expenses. The findings also included that the firm impermissibly "netted" the commission revenue it received, failing to reflect the gross amount of commission the firm received and the amount paid to the registered representative who placed the business, thus understating gross revenues and expenses.

FINRA found that as a consequence of this conduct, the firm filed inaccurate Financial and Operational Combined Uniform Single (FOCUS™) Reports and inaccurate annual audits. FINRA also found that the firm failed to establish, maintain and enforce adequate WSPs regarding the use of outside emails for firm business and the review and retention of emails; the firm permitted associated persons to use personal email accounts to send and receive emails related to the firm's securities business without capturing, reviewing or retaining them. In addition, FINRA determined that the firm paid fees and commissions totaling \$21 million to non-registered limited liability company (LLC) entities of which the firm's registered representatives were the sole members. Moreover, FINRA found that the firm improperly paid the non-registered entities rather than paying the commissions and fees directly to the registered representatives who owned the non-registered entities.

The suspension was in effect from August 15, 2011, through August 26, 2011. ([FINRA Case #2009016262101](#))

Firms Fined

Alliant Securities, Inc. Turner, Nord, Kienbaum (CRD #7726, Liberty Lake, Washington) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to deliver official statements by settlement date to customers who purchased new issue municipal securities during the primary offering disclosure period. The findings stated that the firm was neither an underwriter nor part of the underwriting syndicate, but the firm was required to deliver an official statement to each customer by settlement date. The findings also stated that the firm failed to adopt, maintain and enforce adequate WSPs pertaining to the firm's requirement to deliver official statements to customers purchasing new issue municipal securities in secondary market transactions. ([FINRA Case #2009018036601](#))

BCP Securities, LLC (CRD #27063, Greenwich, Connecticut) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$25,000 and required to revise its WSPs regarding Trade Reporting and Compliance Engine™ (TRACE™) reporting. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report the correct contra-party's identifier for TRACE-eligible securities transactions to TRACE, and failed to report inter-dealer transactions in TRACE-eligible securities it was required to report to TRACE. 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 TRACE reporting. The findings also stated that the firm failed to report S1 transactions in TRACE-eligible corporate bond securities to TRACE within 15 minutes of the execution time. The findings also included that the firm reported transactions in TRACE-eligible securities to TRACE that it was not required to report. ([FINRA Case #2010024120001](#))

Dinosaur Securities, L.L.C. (CRD #104446, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$50,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to open and maintain a Special Reserve Bank Account for its maintenance of customer funds but held customer funds in a facilitation account that did not meet the requirements of a Reserve Bank Account, as required by the Securities Exchange Act of 1934 Rule 15c3-3. The findings also stated that the firm failed to maintain its minimum net capital requirement while conducting a securities business. The findings also included that the firm employed a research analyst who created and distributed research reports and engaged in public appearances; the research reports failed to meet the requirements set forth in NASD Rule 2711(h) because the firm failed to disclose in research reports the percentage of securities rated by the member to which the member would assign a "buy," "hold/neutral," or "sell" rating; the firm failed to disclose in one report the valuation method used to determine the price target and disclose the risks that may impede achievement of the price target; and the firm failed to include

for some reports, clear and comprehensive disclosures related to the valuation method contained in the report and the existence or lack of the firm's positions in the securities of the companies covered in the reports, and failed to include the location of the required disclosures in a prominent, clear and comprehensive manner. FINRA found that the firm failed to maintain records of public appearances by the firm's research analyst, failed to restrict its research analyst from participating in efforts to solicit investment banking business on the firm's behalf and failed to restrict its research analyst from receiving certain compensation based on specific investment banking services transactions by an individual in the investment banking department. FINRA also found that the firm failed to adopt or implement WSPs reasonably designed to achieve compliance with applicable rules regarding the supervision of research activity and the approval of research reports. ([FINRA Case #2008011718001](#))

E1 Asset Management, Inc. (CRD #46872, New York, New York) 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, while conducting a securities business, it failed to maintain the required minimum net capital. The findings stated that the firm's financial books and records, including the firm's trial balances and net capital calculations, were inaccurate; the firm improperly netted payroll advances against its monthly payroll accrual, improperly included amounts held in a brokerage account as an allowable asset even though the firm did not have a Proprietary Accounts of Introducing Broker/Dealer (PAIB) agreement, failed to accrue some expenses and took a larger deduction for a fidelity bond deductible than it was permitted. The findings also stated that the firm failed to report to FINRA statistical and summary information for complaints. The findings also included that the firm's NASD Rule 3070 reporting was inaccurate in that firm reports for these complaints included erroneous complaint dates, incorrect product codes, inaccurate problem codes and/or identified the wrong registered representative. FINRA found that in connection with some of its registered employees, the firm failed to amend or ensure the amendment of Uniform Applications for Securities Industry Registration or Transfer (Forms U4) to disclose customer complaints and the resolution of those complaints, and the firm also filed late Forms U4 amendments. FINRA also found that the firm failed to have an adequate system to preserve instant messages (IM) sent or received by registered representatives of the firm; the firm did not archive IMs in a non-erasable, non-rewritable format. ([FINRA Case #2010021038901](#))

Fidelity Brokerage Services LLC (CRD #7784, Smithfield, Rhode Island) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$375,000, and agreed to make an offer to repurchase illiquid auction rate securities (ARS) from certain customers who purchased ARS via the firm's website between February 13, 2008, and March 4, 2008. For those customers who accept the firm's offer, it will repurchase the illiquid ARS those customers held within 35 days of the acceptance of the firm's offer.

No later than 30 days following the last of the payments, the firm shall certify to FINRA that it made the required payments and provide supporting documents to FINRA upon request. The firm agrees to arbitrate claims for consequential damages filed by the relevant class (individual investors who purchased eligible ARS from the firm at any time between May 31, 2006, and February 28, 2008, into accounts maintained at the firm) relating to eligible ARS through a special arbitration program (SAP) in accordance with rules set forth by FINRA. No later than 90 days after the date of FINRA's acceptance of this AWC, the firm shall notify investors in the relevant class that they are eligible to participate in the SAP. This process is voluntary on the part of qualifying investors and does not preclude investors who elect not to participate in the SAP from pursuing other remedies. Arbitration under the SAP shall be conducted by a single public arbitrator, unless the claim for consequential damages is \$1,000,000 or greater, in which case a panel of three public arbitrators may be appointed if both parties agree. Any investors who choose to pursue such claims through the SAP shall bear the burden of proving that they suffered consequential damages and that such damages were caused by investors' inability to access funds consisting of investors' ARS purchases through the firm. The firm shall be able to defend itself against such claims provided, however, solely for the purposes of the SAP, the firm shall not contest liability related to the sale of ARS and shall not be able to use as part of its defense an investor's decision not to sell ARS holdings prior to receiving a buyback offer from the firm nor the investor's decision not to borrow money from the firm if such loan facility was made available to ARS holders. In determining the appropriate sanctions, FINRA took into account that the firm took significant steps to minimize the impact to customers of the illiquidity of the ARS market.

Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that its website depicted ARS as liquid and omitted material facts about ARS, including risks that investments in ARS could become illiquid. The findings stated that the firm stated on its website that while a failed auction could occur, it did not disclose any risk relating to the potential consequences of a failed auction, and the website did not contain disclosure that broker-dealers placed supporting bids to ensure that auctions would not fail or that the broker-dealers who did this were under no obligation to continue that practice. The findings also stated that the firm provided information to its representatives, including an online reference and fixed income sales training manual, that inaccurately described ARS and omitted material information about risks, including liquidity risks; the online reference also stated that ARS were putable and callable on scheduled reset dates which was false. The findings also included that the online reference and the training manual omitted material information about the risks of failed auctions for ARS that could render ARS illiquid.

FINRA found that the firm did not revise its website disclosure about ARS until after numerous ARS auctions failed. FINRA also found that the firm failed to establish and maintain procedures reasonably designed to ensure it marketed ARS in compliance with federal securities laws and applicable FINRA and/or MSRB rules. In addition, FINRA

determined that the firm inadequately reviewed and supervised the drafting of materials on its website, which contained a discussion about ARS that was misleading and omitted material information. Moreover, FINRA found that the firm failed to establish and maintain procedures reasonably designed to ensure that the written materials it distributed to its registered representatives to educate them regarding the marketing and sale of ARS complied with the appropriate disclosure standards in NASD Rules 2210, 2211 and MSRB Rule G-21. Furthermore, FINRA found that the firm did not act as an issuer, underwriter or sponsor. The findings also stated that the firm did offer to purchase ARS from any customer who had purchased still-illiquid ARS at any time through the firm prior to February 13, 2008; the firm completed the ARS buyback program on or about January 21, 2009, purchasing approximately \$280 million in ARS from customers. The findings also included that no firm customer had sold ARS below par prior to the firm's purchase of ARS as part of the ARS buyback program. ([FINRA Case #2008013056101](#))

Goldman Capital Management, Inc. (CRD #16736, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$12,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to implement procedures for the review and evaluation of the list of individuals under investigation for money laundering and terrorist activities maintained by the Financial Crimes Enforcement Network (FinCEN). The findings stated that the firm did not determine whether any individuals on the list had customer accounts at the firm. The findings also stated that for multiple years the firm failed to procure independent testing of its anti-money laundering (AML) programs. The findings also included that the firm failed to implement an adequate AML training program for firm personnel. ([FINRA Case #2009016194901](#))

H. Beck, Inc. (CRD #1763, Rockville, Maryland) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$150,000, and the firm's president is required to certify to FINRA in writing within 30 days of the issuance of the AWC that the firm currently has in place systems and procedures reasonably designed to achieve compliance with the laws, regulations and rules concerning the preservation of electronic mail communications. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to maintain and preserve certain of its business-related electronic and written communications. The findings stated that most of the firm's registered representatives are independent contractors operating from "one-man" branch office locations throughout the country; the firm's representatives were allowed to maintain written correspondence at their branch offices and the firm permitted representatives to send emails from their personal computers. The findings also stated that the firm did not have an electronic system to capture emails, but instead required representatives to print and make copies of their emails, which along with their written correspondence were reviewed during annual branch inspections; representatives were required to send emails and written correspondence involving the solicitation of products to compliance for pre-approval.

FINRA found that the firm did not have prior system or procedures in place to retain all other emails and written correspondence after the representatives terminated from the firm and as a result, the firm did not subsequently retain most of the emails and written correspondence for representatives who terminated from the firm. FINRA also found that the firm did not establish and implement policies and procedures that could be reasonably expected to detect and cause the reporting of suspicious transactions. In addition, FINRA determined that the firm's WSPs relating to the reporting of suspicious activity failed to provide reasonable detail, such as the specific reports and documents to be reviewed, the timing and frequency of such reviews, the specific persons to conduct the reviews, and a description of how the reviews would be conducted and evidenced. Moreover, FINRA found that the firm's supervisory procedures did not provide adequate guidelines regarding the reporting of suspicious activity, including when a suspicious activity report should be filed and what documentation should be maintained. Furthermore, FINRA found that although the firm had 140,000 active accounts, it used only a minimal number of exception reports, relying instead on its clearing firms to assist in the review of suspicious activity. The findings also stated that the firm failed to conduct adequate independent tests of its AML compliance program (AMLCP), failed to sufficiently test topics and failed to adequately memorialize what was reviewed. The findings also included that with respect to a sample of corporate bond transactions and municipal securities transactions the firm executed, it failed to accurately disclose the receipt time on the majority of the order tickets. ([FINRA Case #2009016150001](#))

Investors Capital Corp. (CRD #30613, Lynnfield, Massachusetts) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$200,000 and consented to undertake a comprehensive review of its policies and procedures concerning suitability of CMOs, and the firm's Director of Compliance shall certify in writing to FINRA within 60 days that it has engaged in a review and has in place policies and procedures designed to ensure compliance with its suitability obligation pertaining to CMOs. 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 an adequate supervisory system relating to retail CMO transactions that was reasonably designed to achieve compliance with applicable securities laws and regulations. The findings stated that the firm's CMO systems and procedures were inadequate because they did not address the increased risks associated with inverse floater and interest-only CMOs, which were sold to firm customers. The findings also stated that the limited written procedures the firm did have only required brokers to be knowledgeable about CMOs, in general, and only required generic disclosures to clients. The findings also included that the procedures failed to provide information to brokers regarding specific risks associated with inverse floater and interest-only CMOs or advise them that such tranches were only suitable for sophisticated investors with a high risk profile.

FINRA found that the firm's supervisory systems and procedures failed to provide guidance to supervisors in connection with the sale of inverse floater and interest-only CMOs, and failed to establish adequate supervisory measures to monitor suitability for these riskier CMOs. FINRA also found that as a result, inverse floater and interest-only CMOs were sold without an adequate suitability review, including whether the purchasing customers were sophisticated or had a high risk profile; FINRA did not find these transactions to be unsuitable. In addition, FINRA determined that the suitability determinations the firm made did not take into account FINRA's guidance regarding the additional risks inverse floater and interest-only CMOs posed. Moreover, FINRA found that the firm's systems and procedures failed to require its brokers to offer to customers the educational materials required under NASD Interpretative Material 2210-8, and, as a result, brokers involved in selling CMOs to retail customers were unaware of this requirement. Furthermore, FINRA found that the firm did not offer any CMO-related educational materials to its customers, including prior to the sale of a CMO. ([FINRA Case #2007011545201](#))

Lawson Financial Corporation (CRD #15261, Phoenix, Arizona) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$25,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to deliver official statements by settlement date to customers who purchased new issue municipal securities during the primary offering disclosure period. The findings stated that the firm was neither an underwriter nor part of the underwriting syndicate, but the firm was required to deliver an official statement to each customer by settlement date. The findings also stated that the firm failed to adopt, maintain and enforce adequate WSPs pertaining to the firm's requirement to deliver official statements to customers purchasing new issue municipal securities in secondary market transactions. ([FINRA Case #2009018036301](#))

LPL Financial LLC (CRD #6413, Boston, Massachusetts) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$22,500 and required to revise its WSPs regarding reporting of transactions to TRACE. 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 account type codes. The findings stated that the firm inaccurately transmitted Execution Reports or Combined Order/Execution Reports to OATS it was not required to submit. The findings also stated that the firm failed to report transactions in TRACE-eligible securities to TRACE within 15 minutes of the execution time. The findings also included that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations, and FINRA rules concerning the reporting of transactions to TRACE. ([FINRA Case #2008012537201](#))

Merrill Lynch, Pierce, Fenner & Smith, Incorporated (CRD #7691, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$400,000. Without admitting or denying the findings, the firm consented to the

described sanctions and to the entry of findings that it failed to enforce its AMLCP and written procedures by accepting third-party checks for deposit into a customer's account that, contrary to the procedures, did not identify that customer by name. The findings stated that as a result, one of its customers, a registered representative at another member firm, was able to move more than \$9 million of misappropriated funds through his Merrill Lynch cash management brokerage account. The findings also stated that the registered representative deposited his customers' checks for a purported investment into his personal account at the firm; the investor checks were non-personal checks made payable to the firm and, in most instances, the customer had written the registered representative's account number on the check. The findings also included that the absence of the registered representative's name on the checks gave no indication to those outside of the firm, including the registered representative's investors, that the money was going to the registered representative's personal account.

FINRA found that in accepting these deposits, the firm failed to follow its written procedures because these non-personal checks were accepted for deposit without containing the name of the firm client who owned the account; had the firm enforced its procedures, the registered representative would not have been able to move the proceeds of his misappropriation scheme through the firm. FINRA also found that the firm disregarded certain indications of the registered representative's misconduct, such as the fact that he was depositing large amounts of money into, and then moving large amounts of funds out of, an account that had no market investment activity through the use of large dollar checks payable to himself or to cash; and depositing the funds of third parties with whom he had no apparent family or fiduciary relationship. In addition, FINRA determined that the firm did not have internal controls in place to ensure compliance with its deposit acceptance procedures regarding non-personal checks. Moreover, FINRA found that the firm did not have an adequate system to monitor deposit activity in accounts such as the registered representative's that lacked securities activity and displayed indications of misconduct. ([FINRA Case #2009020383001](#))

Nanes, Delorme Capital Management LLC (CRD #104135, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$15,000. FINRA imposed a lower fine in this case after it considered, among other things, the firm's revenues and financial resources. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to preserve, for a period of not less than three years, the first two years in an easily accessible form, all email correspondence relating to the firm's business. The findings stated that emails involving research and emails viewed by the firm as administrative or technical were deleted, emails were not indexed and were not easily located; consequently, the firm was not able to locate various emails sent or received in one year in response to FINRA requests. The findings also stated that the firm failed to preserve all emails relating to the firm's securities business exclusively in a non-rewritable, non-erasable format as required by SEC

Rule 17a-4(f)(2)(ii)(A). The findings also included that not only were individual emails users able to delete emails, in which case, they would not be stored, the medium that the firm used to back-up and store emails was rewritable and erasable.

FINRA found that the electronic storage media the firm used did not automatically verify the quality and accuracy of the storage media process, and the firm did not have in place an audit system providing for accountability regarding inputting of records required to be maintained and preserved by electronic storage media. FINRA also found that the firm failed to engage at least one third party who has access to, and the ability to, download information from the firm's electronic storage media to another acceptable medium, and who undertakes to promptly furnish to FINRA information necessary for downloading information from the firm's electronic storage system and provide access to information contained on its storage system. In addition, FINRA determined that the firm failed to retain records evidencing supervisory review of email correspondence of registered representatives relating to the firm's securities business. Moreover, FINRA found that the firm failed to report transactions in TRACE-eligible securities to TRACE that it was required to report, and failed to report the correct price for transactions in TRACE-eligible securities to TRACE. Furthermore, FINRA found that in connection with corporate bond transactions, the firm failed to prepare brokerage order memoranda, in that order memoranda did not show the account for which the order was entered, the time the order was received, the order entry time, the execution time and the identity of each associated person responsible for the account. ([FINRA Case #2009016349601](#))

National Financial Services LLC (CRD #13041, Boston, Massachusetts) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$200,000 and required to notify all affected customers that they received inaccurate confirmations from the firm with respect to the percentage sales load charged on unit investment trust (UIT) transactions. An officer of the firm is also required to certify, within 60 days of issuance of the AWC, that the firm has issued the notifications. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it issued approximately 90,000 confirmations to customers for UIT transactions that reported an inaccurate sales load percentage. The findings stated that the sales load the customers paid was correct (within the range listed in the prospectus), but the confirmations reflected a lower percentage sales load than what was actually charged; the percentage listed on the confirmations as the sales load was actually the dealer concession. The findings also stated that in preparing the confirmations, the firm relied on a faulty data feed from a third-party provider. The findings also included that the firm, as a clearing firm, contracted with a third-party vendor that provided it with valuations for alternative investments held in customer accounts.

FINRA found that the vendor provided the firm with an electronic report containing, among other things, a code corresponding to the valuation method used for each investment; firm employees would then manually input that code into the firm's electronic systems.

FINRA also found at various times, firm employees mistakenly inputted the wrong valuation code into the firm's electronic systems or failed to update the valuation code when the vendor changed it. In addition, FINRA determined that the firm placed the erroneous data on customer account statements, thereby misstating the valuation methods that were used to determine the prices of alternative investments. ([FINRA Case #2010021681701](#))

OC Securities, Inc. (CRD #133264, Lake Forest, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$30,000. FINRA imposed a lower fine after it considered, among other things, the firm's revenues and financial resources. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to properly implement its AML procedures to detect potentially suspicious transactions. The findings stated that the AML procedures were created using a template for small firms available on the FINRA website which provided examples of red flags that would alert employees to suspicious activity. The findings also stated that the firm failed to monitor for at least one of the red flags listed in its AML procedures that would alert employees to suspicious activity, and the firm conducted no review of potentially suspicious transactions involving penny stocks. The findings also included that the firm's procedures did not address red flags associated with the receipt and/or sale of physical certificates of penny stocks and restricted securities by the firm or the type of due diligence required to be performed if a stock certificate was received.

FINRA found that since the firm did not examine the physical stock certificates and did not perform any due diligence on stock certificates presented for deposit, the firm's procedures were deficient, and the firm failed to implement the minimal procedures it did have to detect potentially suspicious activity. FINRA also found that the firm improperly relied on its clearing firm to conduct due diligence inquiries with regard to stock certificates presented for deposit into the firm's customer accounts. In addition, FINRA determined that although the firm's procedures listed the red flags that could indicate suspicious activity, many of which were raised by the transactions at issue, the firm failed to review the trading activity to detect these potential red flags and to analyze them to determine if they were suspicious and reportable under the Bank Secrecy Act. Moreover, FINRA found that as a result, the firm accepted approximately 130 stock certificates representing 439,344,949 shares of 52 different stocks without taking any independent action to learn and/or verify the facts and circumstances to determine if the transactions were suspicious and reportable. ([FINRA Case #2010021779801](#))

Pulse Trading, Inc. (CRD #104022, Boston, Massachusetts) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$20,000 and required to revise its WSPs regarding trade reporting. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted Execution or Combined Order/Execution Reports to OATS that contained inaccurate, incomplete or improperly formatted data so that the OATS system was unable

to link the execution reports to the related trade reports in a FINRA trade reporting system. The findings stated that the firm failed to report to the NASD/NASDAQ Trade Reporting Facility® (NNTRF) the correct symbol indicating the capacity in which it executed transactions in reportable securities. 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 trade reporting. ([FINRA Case #2008015436101](#))

R. Seelaus & Co., Inc. (CRD #14974, Summit, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$37,500 and ordered to pay \$9,671, plus interest, in restitution to customers. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it sold corporate bonds to customers and failed to sell such bonds at a price that was fair, taking into consideration all relevant circumstances, including market conditions with respect to each bond at the time of the transaction, the expense involved and that the firm was entitled to a profit. The findings stated that the firm failed to report the correct trade time to the Real-time Transaction Reporting System (RTRS) in reports of municipal securities transactions. The findings also stated that the firm failed to report information for the transactions within 15 minutes of trade time to an RTRS Portal. The findings also included that the firm failed to show the correct execution time on the memorandum of transactions in municipal securities for the account of the firm executed with another broker-dealer. ([FINRA Case #2009019802101](#))

Seidel & Shaw L.L.C. (CRD #42821, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$17,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report the correct contra-party's identifier to TRACE for transactions in TRACE-eligible securities. The findings stated that the firm double-reported some transactions, reported transactions it was not required to report, failed to report transactions it was required to report, failed to report the correct trade execution time for some transactions and failed to report the correct volume for some transactions. The findings also stated that the firm failed to report the correct trade execution time for agency debt transactions in TRACE-eligible securities to TRACE. ([FINRA Case #2009016803401](#))

TJM Investments, LLC (CRD #46300, Chicago, Illinois) 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 transmit most of its Reportable Order Events (ROEs) that it was required to transmit to OATS on numerous business days. ([FINRA Case #2008015784301](#))

Van Kampen Funds Inc. (CRD 6939, Houston, Texas) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$17,500 and required to revise its WSPs 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 for over a year. 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 #2008013163301](#))

Veritrust Financial, LLC (CRD #106594, Austin, Texas) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$90,000 and ordered to pay \$34,105.40, plus interest, in restitution to customers. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to establish and maintain a supervisory system or WSPs reasonably designed to detect and prevent the charging of excessive commissions on mutual fund liquidation transactions. The findings stated that the firm failed to put in place any supervisory systems or procedures to ensure that customers were not inadvertently charged commissions, in addition to the various fees disclosed in the mutual fund prospectus, on their mutual fund liquidation transactions. The findings also stated that the firm's failure to take such action resulted in commissions being charged on transactions in customer accounts that generated approximately \$64,110 in commissions for the firm. The findings also included that the firm had inadequate supervisory systems and procedures to ensure that a firm principal reviewed, and the firm retained, all email correspondence for the requisite time period; the firm failed to review and retain securities-related email correspondence sent and received on at least one registered representative's outside email account, and the firm did not have a system or procedures in place to prevent or detect non-compliance.

FINRA found that the firm failed to conduct an annual inspection of all of its Offices of Supervisory Jurisdiction (OSJ) branch offices. FINRA also found that the firm failed to comply with various FINRA advertising provisions in connection with certain public communications, including websites, one billboard and one newsletter, in that a registered principal had not approved websites prior to use; websites did not contain a hyperlink to FINRA's or Securities Investor Protection Corporation (SIPC)'s website; one website, the billboard and the newsletter failed to maintain a copy of the communication beginning on the first date of use; and sections of websites that concerned registered investment companies were either not filed, or timely filed, with FINRA's Advertising Regulation Department. In addition, FINRA determined that websites contained information that was not fair and balanced, did not provide a sound basis for evaluating the facts represented, or omitted material facts regarding equity indexed annuities, fixed annuities and variable annuities. Moreover, FINRA found that websites contained false, exaggerated, unwarranted or misleading statements concerning mutual B shares; the firm's websites and the billboard did not prominently disclose the firm's name, and a website, in connection with

a discussion of mutual funds, failed to disclose standardized performance data, failed to disclose the maximum sales charge or maximum deferred sales charge and failed to identify the total annual fund operating expense ratio, and a website, in a comparison between exchange-traded funds (ETFs) and mutual funds failed to disclose all material differences between the two products. Furthermore, FINRA found that the firm failed to report, or to timely report, certain customer complaints as required; the firm also failed to timely update a registered representative's Uniform Termination Notice for Securities Industry Registration (Form U5) to disclose required information. The findings also stated that the firm failed to create and maintain a record of a customer complaint and related records that included the complainant's name, address, account number, date the complaint was received, name of each associated person identified in the complaint, description of the nature of the complaint, disposition of the complaint or, alternatively, failed to maintain a separate file that contained this information. The findings also included that the firm failed to ensure that all covered persons, including the firm's president and CEO, completed the Firm Element of Continuing Education (CE). FINRA found that the firm's 3012 and 3013 reports were inadequate, in that the 3012 report for one year was inadequate because it failed to provide a rationale for the areas that would be tested, failed to detail the manner and method for testing and verifying that the firm's system of supervisory policies and procedures were designed to achieve compliance with applicable rules and laws, did not provide a summary of the test results and gaps found, failed to detect repeat violations including failure to conduct annual OSJ branch office inspections, advertising violations, customer complaint reporting, and ensuring that all covered persons participated in the Firm Element of CE. FINRA also found that the firm's 3013 report for that year did not document the processes for establishing, maintaining, reviewing, testing and modifying compliance policies to achieve compliance with applicable NASD rules, MSRB rules and federal securities laws, and the manner and frequency with which the processes are administered. In addition, FINRA determined that the firm also failed to enforce its 3013 procedures regarding notification from customers regarding address changes. ([FINRA Case #2008011640802](#))

Individuals Barred or Suspended

Devin Raj Anand (CRD #5160369, Registered Representative, Calabasas, California) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Anand converted customer funds by wiring funds totaling \$51,289 from the customer's account to outside bank accounts of which Anand was associated; the customer did not authorize and had no knowledge of any of the wire transfers Anand made. The findings stated that Anand attempted to wire additional funds totaling \$24,000 from the customer's account but Anand's member firm did not complete the wires. The findings also stated that Anand misappropriated funds from a non-customer by creating a false account, borrowing \$49,500 in funds from her 401(k) account without her knowledge or authorization, depositing the money into a bogus account he created in the non-customer's name at his firm, and then wiring funds out of the account for his benefit;

the individual was an employee of a business Anand's relatives owned. The findings also included that the individual did not authorize Anand to open an account, did not complete or sign any new account opening documents and, in furtherance of the scheme, Anand created false documents related to the opening of the account which he submitted to his firm, thereby causing his firm to maintain inaccurate books and records. FINRA found that Anand failed to respond to FINRA requests for information and to appear and testify at an on-the-record interview. ([FINRA Case #2009017302001](#))

Thomas Michael Aretz (CRD #1083897, Registered Representative, Destin, Florida) was barred from association with any FINRA member in any capacity and ordered to pay \$251,907, plus interest, in restitution to customers. The sanctions were based on findings that Aretz established an outside business activity and never made a written request to, or received permission from, his member firm to engage in the outside business activity. The findings stated that in connection with the outside business, Aretz borrowed approximately \$242,800 from firm customers without requesting or obtaining permission from his firm, and has yet to repay the loans. The findings also stated that Aretz' firm prohibited its registered representatives from borrowing funds from customers without the express written consent of the firm's chief compliance officer or a member of the firm's senior management. The findings also included that Aretz failed to disclose the loans on several annual firm compliance questionnaires and that he failed to respond to FINRA requests for information. ([FINRA Case #2009017764301](#))

Colleen Anne Averill (CRD #2005765, Registered Representative, Wilsonville, Oregon) 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, Averill consented to the described sanction and to the entry of findings that she misappropriated funds from an elderly customer's securities accounts over a period of three years, and was convicted of multiple felonies stemming from her conduct. The findings stated that Averill continued her thefts even after her member firm terminated her employment for lack of production. ([FINRA Case #2009018941502](#))

Scott J. Baklenko (CRD #4632949, Registered Representative, Seattle, Washington) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$20,000 and suspended from association with any FINRA member in any capacity for 20 months. The fine must be paid either immediately upon Baklenko'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, Baklenko consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without prior written notice to, and approval from, his member firm, in that he participated in the sales to firm customers of limited partnership interests in an entity he and a business associate had formed for a total of \$1,095,000. The findings stated that Baklenko and the business associate opened an account with another member firm in their entity's name; Baklenko failed to notify his

member firm in writing that he had established the account with the other firm and he failed to notify the other firm, with which he opened the account, in writing that he was associated with a firm. The findings also stated that Baklenko effected trades in his entity's account at the other firm, which included securities purchases totaling approximately \$176,575 and securities sales totaling approximately \$57,109.

The suspension is in effect from August 15, 2011, through April 14, 2013. ([FINRA Case #2009019500401](#))

Vishal Birsingh (CRD #4420546, Registered Principal, New Hampton, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member in any capacity for one year. In light of Birsingh's financial status, no monetary sanctions were imposed. Without admitting or denying the findings, Birsingh consented to the described sanction and to the entry of findings that he engaged in excessive and unsuitable trading in a customer's brokerage account, which resulted in at least \$43,000 in losses. The findings stated that Birsingh did not have reasonable grounds for believing that the transactions were suitable for the customer and the excessive trading in the account resulted in a turnover ratio of about 25.7. The findings also stated that Birsingh entered unauthorized transactions in that customer's account.

The suspension is in effect from July 18, 2011, through July 17, 2012. ([FINRA Case #2008014759401](#))

John Steven Bisaha (CRD #4668650, Registered Representative, Delaware, Ohio) submitted a Letter of Acceptance, Waiver and Consent in which he was is barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Bisaha consented to the described sanction and to the entry of findings that he failed to respond to FINRA requests for documents and information regarding his submission of falsified account statements to a former member firm to receive commission payments for variable annuity transactions. ([FINRA Case #2009019375901](#))

John-Eric Bonilla (CRD #4149132, Registered Representative, Sacramento, California) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Bonilla failed to respond to FINRA requests for information. ([FINRA Case #2009017129001](#))

Brian Scott Brewer (CRD #2973586, Registered Principal, Montgomery, Alabama) submitted an Offer of Settlement in which he was fined \$20,000 and suspended from association with any FINRA member in any principal capacity for 12 months. The fine must be paid either immediately upon Brewer'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, Brewer consented to the described sanctions and to the entry of findings that he failed to adequately supervise a registered representative's variable annuity sales activities. The

findings stated that Brewer personally reviewed and approved variable annuity switches of the registered representative's customers despite the misstatements and omissions on the switch forms and numerous red flags revealing that the transactions were unsuitable. The findings also stated that after becoming aware of the inaccurate information and omissions contained in the forms the registered representative submitted, Brewer did not require that all of the deficiencies be corrected on his member firm's books and records and that customers be presented with forms that were completely accurate. The findings also included that at no time did Brewer take any action to reverse the transactions the registered representative had already effected, nor did he take any actions to prevent the registered representative from completing additional unsuitable switches. FINRA found that Brewer was responsible for replying to the audit reports and implementing adequate systems and procedures relating to the supervision of variable annuities at his firm; although he was made aware of issues in the variable annuities sales review process cited by the firm's Audit Division, he failed to take adequate steps to correct the identified failings. FINRA also found that Brewer failed to maintain an adequate system of supervision and follow-up review, and failed to maintain and enforce written procedures reasonably designed to achieve compliance with applicable securities laws and regulations and FINRA rules in connection with the sale of variable annuities.

The suspension is in effect from August 15, 2011, through August 14, 2012. ([FINRA Case #2005002244102](#))

Richard Harold Byerly (CRD #848070, Registered Representative, Chester Springs, Pennsylvania) submitted an Offer of Settlement in which he was suspended from association with any FINRA member in any capacity for two years and ordered to pay \$30,000 in partial restitution to customers. In light of Byerly's financial status, no fine was imposed. Without admitting or denying the allegations, Byerly consented to the described sanctions and to the entry of findings that he engaged in unsuitable, excessive trading in elderly customers' accounts. The findings stated that the customers were retirees with conservative investment objectives living on fixed incomes who suffered collective losses of approximately \$390,000 during the period of excessive trading. The findings also stated that Byerly recommended and effected the transactions without having reasonable grounds for believing that such transactions were suitable for the customers in view of the size and frequency of the transactions, the transaction costs incurred, and in light of the customers' financial situations, investment objectives and needs. The findings also included that Byerly exercised discretion in these accounts as well as in other customers' accounts without the customers' written authorization or his member firm's written acceptance of the accounts as discretionary; his firm did not permit discretionary accounts. FINRA found that Byerly continuously misrepresented to his firm on annual compliance questionnaires over a three-year period that he did not maintain any accounts in which he had exercised discretion. FINRA also found that in response to a written FINRA request seeking information regarding a customer complaint, Byerly submitted a letter to FINRA in which he falsely misrepresented that he had received the customer's prior approval for all trades in the customer's account.

The suspension is in effect from August 1, 2011, through July 31, 2013. ([FINRA Case #2009017492201](#))

Julia Merritt Cameron (CRD #4906901, Registered Representative, Lebanon, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$2,500 and suspended from association with any FINRA member in any capacity for 10 business days. The fine must be paid either immediately upon Cameron'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, Cameron consented to the described sanctions and to the entry of findings that she borrowed \$1,500 from one of her customers at her member firm, which was repaid but did not seek approval for the borrowing and did not otherwise obtain approval from the firm to borrow money from the customer. The findings stated that when the borrowing occurred, the firm required representatives, before borrowing money from a customer, to obtain a designated official's written approval. The findings also stated that Cameron did not disclose to the firm that she had borrowed money from a customer.

The suspension was in effect from August 15, 2011, through August 26, 2011. ([FINRA Case #2010023339801](#))

Darren Joseph Capote (CRD #5040527, Registered Representative, Patterson, New York) 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 and ordered to pay \$10,000 in restitution to customers. In light of Capote's financial status, the sanctions did not include a monetary fine. Without admitting or denying the findings, Capote consented to the described sanctions and to the entry of findings that he recommended and engaged in excessive and unsuitable trading in customers' accounts. The findings stated that each of the accounts were subjected to excessive, short-term trading by Capote, and excessive use of margin, which resulted in annualized cost-to-equity ratios ranging from 115 percent to 226 percent. The findings also stated that Capote's trading resulted in gross commissions of approximately \$149,000 and customer losses of approximately \$287,380. The findings also included that Capote did not have reasonable grounds for believing that the recommended transactions were suitable for the customers in view of their financial situation and needs.

The suspension is in effect from July 18, 2011, through January 17, 2012. ([FINRA Case #2008014431801](#))

Charles Caputo Jr. (CRD #2715387, Registered Representative, Wading River, New York) submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Caputo consented to the described sanction and to the entry of findings that he provided falsified account statements to a customer for a personal and a corporate account the customer held at Caputo's member firm, with the intent of leading the customer to believe the all-but-worthless accounts held securities valued as high as \$600,000; both accounts had incurred

substantial losses. The findings stated that the entire time the accounts were held at Caputo's firm, the customer received account statements through the firm's clearing firms; however, the customer also received fabricated account statements Caputo provided him. The findings also stated that the typical one-page fabricated account statement listed the account name and number, the statement period, a false market value, a false cash balance and a false option value; copies of the false statement FINRA obtained show that they were transmitted by facsimile from Caputo's home-office fax number. The findings also included that the false statements the customer received from Caputo reported that the personal account was valued at \$292,020.53 and that the corporate account was valued at \$325,446.36; in reality the personal account was valued at less than \$70 and the corporate account had been closed. FINRA found that the customer, apparently relying on the values shown on the false statements, contacted Caputo and requested that he wire \$120,000 from the corporate account; Caputo advised the customer that there was no money in either account. FINRA also found that Caputo failed to appear and testify in a FINRA on-the-record interview. ([FINRA Case #2009016885101](#))

James Leo Carroll (CRD #4351382, Registered Representative, Merrick, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$7,500 and suspended from association with any FINRA member in any capacity for 30 days. The fine must be paid either immediately upon Carroll'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, Carroll consented to the described sanctions and to the entry of findings that he invested approximately \$100,000 of his own money in a Ponzi scheme from which he made a \$25,000 profit; Carroll did not invest any customer funds in the Ponzi scheme. The findings stated that Carroll failed to disclose his private securities transaction to his member firm until after the Ponzi scheme collapsed and his firm's home office began investigating possible involvement of its registered representatives. The findings also stated that Carroll engaged in outside business activities and failed to provide prompt written notice to his firm regarding his involvement.

The suspension was in effect from July 18, 2011, through August 16, 2011. ([FINRA Case #2009016911201](#))

David Matthew Chase (CRD #5469025, Registered Representative, Tempe, 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, Chase consented to the described sanction and to the entry of findings that he wrote fictitious fire insurance policies and fictitious life insurance policies while an insurance company employed him; these policies were written without the insureds' knowledge and consent. The findings stated that with regard to the fire insurance policies, in most cases, the billing notifications were sent either to the home of Chase's relatives, Chase's former insurance agency address or his residence; as a result, the purported

insureds did not receive any communications from the insurance company concerning these policies. The findings also stated that by writing these policies, Chase received compensation of approximately \$2,725 and he qualified to remain on the insurance company's career program. The findings also included that Chase failed to respond to FINRA requests for information and documents. ([FINRA Case #2010021866301](#))

Ronald Dean Clark (CRD #1086724, Registered Representative, Tampa, Florida) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 15 business days. Without admitting or denying the findings, Clark consented to the described sanctions and to the entry of findings that he participated in a private securities transaction, not for selling compensation, involving the purchase of approximately \$88,000 worth of equity securities by customers and failed to provide written notice to his member firm prior to his participation in the securities transaction.

The suspension was in effect from August 1, 2011, through August 19, 2011. ([FINRA Case #2009018098601](#))

Audrey Dianne Cline (CRD #2615316, Registered Representative, Shelton, Nebraska) submitted an Offer of Settlement in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity for three months. Without admitting or denying the allegations, Cline consented to the described sanctions and to the entry of findings that she participated in private securities transactions contrary to her member firm's policies and procedures without providing her firm any prior notice, written or otherwise, and receiving the firm's prior written approval of her recommendations of promissory notes to customers and a non-customer. The findings stated that Cline failed to inform her firm that she held an introductory meeting between a customer and the issuer of the promissory notes in her firm office.

The suspension is in effect from July 18, 2011, through October 17, 2011. ([FINRA Case #2009017656901](#))

Richard Grant Cody (CRD #2794558, Registered Representative, Boston, Massachusetts) was fined \$27,500 and suspended from association with any FINRA member in any capacity for one year. The SEC sustained the sanctions following appeal, in part, of the National Adjudicatory (NAC) decision. The sanctions were based on findings that Cody engaged in excessive trading in customers' accounts given the customers' conservative investment objectives and financial situations, without prior notification to the customers. The findings stated that Cody provided his customers with account summaries that contained misstatements and were materially misleading to the customers' efforts to understand the trading and market values of their accounts. The findings also included that Cody failed to timely update his Form U4 to disclose customer settlements.

Cody filed a Motion for Reconsideration with the SEC and the sanctions are not in effect pending the Reconsideration ([FINRA Case #2005003188901](#))

Timothy Charles Cross (CRD #1452750, Registered Principal, Washougal, Washington) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000, suspended from association with any FINRA member in any principal or supervisory capacity for six months, and required to requalify as a general securities principal by examination before association with any member firm in a principal or supervisory capacity. Without admitting or denying the findings, Cross consented to the described sanctions and to the entry of findings that he failed to supervise the activities of a registered representative of his member firm in a manner that was reasonably designed to achieve compliance with applicable securities laws and regulations. The findings stated that Cross was the registered representative's designated supervisor. The findings also stated that the registered representative, through her fraudulent scheme, converted to her own use and benefit at least \$8 million from clients, including the firm's customers. The findings also included that the representative persuaded her clients to liquidate existing investments, for the purpose of purchasing other investments, and instructed the customers to make the checks payable to an entity Cross owned and with which she conducted business. Rather than use the clients' funds to purchase the other investments, she diverted their funds to her own personal use. FINRA found that in order to conceal her conversion of the clients' funds, she prepared and sent to the clients' false account statements, and she concealed from the firm the personal bank account where the clients' funds were deposited.

The findings also included that approximately once a month Cross received from the representative a blotter that listed purchases and sales processed through direct applications to issuers; Cross also received reports from the firm's insurance affiliate, which showed the representative's insurance sales activity, except for the business she conducted with other insurers.

FINRA found that some of the representative's outside insurance business was conducted through Cross' insurance agency; Cross was therefore able to track all of the representative's business except for a portion of her outside insurance business. FINRA also found that the representative's income from her securities business and from insurance business conducted through the firm's affiliate was not sufficient to pay her expenses; and that, although it was obvious that the representative had additional income, Cross did not attempt to determine the source of that income. In addition, FINRA determined that the securities blotters Cross reviewed showed numerous sales of securities by the representative's clients and did not show that they had purchased other products with the proceeds of those sales; but Cross did not take note of the liquidations shown on the blotters and make inquiries to determine what happened to the proceeds of those sales. Moreover, FINRA found that Cross conducted an inspection of the representative's office; and that the firm's inspection checklist required him to complete a checking account review form for each doing business as (DBA) and outside business activity (OBA) accounts owned or controlled by the representative as well as any other accounts where commissions are deposited, including business accounts, DBA accounts and personal accounts. Furthermore,

FINRA found that before the inspection of the representative's office, Cross participated in the firm's webcast training session regarding office inspections; a significant portion of the training was devoted to the review of checking accounts. The findings also stated that as part of the inspection, Cross reviewed account statements for the registered representative's business account; the representative told Cross that the business account was her only bank account. The findings also included that there were several reasons why Cross should have known that the representative had another bank account and that some of her commissions were deposited into that account; FINRA found that Cross should have realized that the commissions deposited into the business account represented less than all of the registered representative's income. FINRA found that Cross knew that the representative frequently sold an entity's annuities and there was no evidence that the entity's commissions were deposited into the business account; and that Cross could also see that the representative did not pay her personal expenses from the business account, a further indication that she had another account. FINRA also found that Cross failed to note large deposits that were shown on the business account statements; that the statements showed 35 deposits of \$2,000 or more from unidentified sources in a 12-month period, and that the total amount of those deposits was approximately \$497,585. In addition, FINRA determined that pursuant to his firm's directives, Cross should have requested documentation showing the sources of those payments; had he done so, Cross would have learned of the personal account where the registered representative had deposited clients' funds, and thus would have discovered that the representative had received large payments from customers.

The suspension is in effect from July 18, 2011, through January 17, 2012. ([FINRA Case #2010021640302](#))

Matthew Crump (CRD #1924664, Registered Principal, Houston, 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, Crump consented to the described sanction and to the entry of findings that he was the CCO at his member firm and utilized his position to convert approximately \$14,000 from firm customers' brokerage accounts by using fictitious documents to effect unauthorized transfers of securities and cash from the customers' accounts to a trust account he established at his firm. The findings stated that Crump transferred securities and cash worth approximately \$4,000 from one customer's account by using a fictitious letter of authorization to effect the conversion. The findings also stated that two days before the transfer, Crump used the firm's systems to temporarily change the address on the customer's account to Crump's attention at his work address, the effect of which was to have correspondence and other notices relating to the account sent to him at his firm. The findings also included that Crump used a fictitious retirement account distribution form and a fictitious letter of authorization to effect the conversion of securities and cash worth approximately \$10,000 from another customer's Individual Retirement Account (IRA) to the customer's cash account, and Crump transferred the securities and cash from

the customer's cash account to the trust account he controlled. FINRA found that the customers did not know about or authorize the transfers. FINRA also found that Crump used the unlawfully converted funds to pay for his personal and business expenses.

[\(FINRA Case #2011028107401\)](#)

William Charles Davis (CRD #2540575, Registered Representative, Plainfield, 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 four months. Without admitting or denying the findings, Davis consented to the described sanctions and to the entry of findings that he participated in private securities transactions by introducing customers of his member firm and another individual to a principal of a mortgage processing company without giving written notice to, and receiving approval from, his member firm before participating in the private securities transactions outside the regular scope of his employment with the firm. The findings stated that Davis engaged in an unapproved outside business activity by working as a loan originator with the same mortgage processing company without notifying his firm or requesting its approval. The findings included that Davis did not request or receive permission from his firm to engage in this outside business activity. FINRA found that Davis earned \$12,500 in compensation from the company while employed at his firm.

The suspension is in effect from August 15, 2011, through December 14, 2011. [\(FINRA Case #2009018726501\)](#)

Bradford Keith Dent (CRD #1588966, Registered Principal, Cordova, Tennessee) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Dent suffered a series of losses from trading in his member firm's error account, and in an apparent attempt to conceal the losses, he entered unauthorized trades in customer accounts, intending them to offset trades in the error account that would conceal the earlier, unrelated trading losses he had incurred from his firm. The findings stated that the customers had not provided Dent with discretionary authority and one customer incurred a total loss of \$126,513.65, which was offset in the error account, reflecting a profit in it equal to the loss in the customer's account. The findings also stated that Dent admitted to entering the trades in the firm's error account and in the customers' accounts when his firm's Chief Executive Officer (CEO) confronted him. The findings also included that Dent failed to respond to FINRA requests for information and to appear for an on-the-record interview. [\(FINRA Case #2009016893101\)](#)

Nicholas C. Dito (CRD #4850362, Registered Representative, Staten Island, 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, Dito consented to the described sanction and to the entry of findings that he obtained possession of a computer flash drive that contained non-public customer account information and mined out selected excerpts for his own use by emailing the information, on separate occasions, to his member firm email address. The findings stated that the

flash drive contained, among other things, approximately 350 account statements of customers from a FINRA member firm; each of the customer account statements contained in the flash drive displayed non-public financial information including customer names, addresses, account numbers, financial positions, broker identification numbers and account values. The findings also stated that subsequent to reviewing the contents of the flash drive, Dito copied customer account information from the non-public customer account information contained in the flash drive. The findings also included that the first email he sent to his firm email address contained the names and addresses of approximately 300 customers, which Dito had copied directly from FINRA member firm customer account statements contained in the flash drive; Dito intended to use the customer account information contained on the first email to cold-call prospective customers. FINRA found that the second email Dito sent to his firm email address consisted of a listing of financial positions for a FINRA member firm securities account a customer owned. FINRA also found that the financial positions detailed in the second email showed the customer's equity stock holdings and their total net value, and Dito copied these financial positions directly from the customer account statements contained on the flash drive, which were identical to the client accounts positions displayed in a customer account statement a FINRA member firm generated. In addition, FINRA determined that Dito failed to fully cooperate with FINRA and answer all of FINRA's questions at an on-the-record examination. ([FINRA Case #2009020432101](#))

William Arthur Fox (CRD #1838232, Registered Principal, Fort Lauderdale, Florida) submitted an Offer of Settlement in which he was fined \$15,000 and suspended from association with any FINRA member in any capacity for 60 days. The fine must be paid either immediately upon Fox'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, Fox consented to the described sanctions and to the entry of findings that as the FINOP at a member firm, Fox failed to adequately perform his FINOP responsibilities in that, *inter alia*, he failed to take adequate steps to ensure the accuracy of the firm's net capital calculations and financial reports or to fulfill his duty concerning the performance of the firm's responsibilities under all financial responsibility rules. The findings stated that the firm held and segregated security positions in its proprietary accounts for the benefit of the firm's parent company and an owner of the firm to satisfy the obligations of promissory notes and a confidential private placement memorandum (PPM). FINRA found that as the FINOP for his firm, Fox was responsible for supervision and/or performance of the firm's compliance with all financial responsibility rules under the Exchange Act, including timely filing SEC Rule 17a-11 notifications, preparing and reporting accurate books and record, and filing accurate FOCUS reports.

The suspension is in effect from August 1, 2011, through September 29, 2011. ([FINRA Case #2009016158501](#))

Harry Friedman (CRD #2548017, Registered Principal, Woodmere, New York) was fined \$77,500 and suspended from association with any FINRA member in any capacity for nine months. The SEC sustained the sanctions following appeal of a NAC decision. The sanctions were based on findings that Friedman participated in private securities transactions for compensation without providing written notice to, or obtaining prior written approval from, his member firm.

The suspension is in effect from August 1, 2011, through April 30, 2012. ([FINRA Case #2005000835801](#))

Michael Braden Golembiesky (CRD #4498169, Registered Representative, South Beloit, 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 30 days. The fine must be paid either immediately upon Golembiesky'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, Golembiesky consented to the described sanctions and to the entry of findings that he borrowed \$30,000 from a customer without his member firm's knowledge or approval. The findings stated that the firm prohibited registered representatives from borrowing money from customers unless that customer was a member of the registered representative's immediate family and the registered representative had requested and received prior written permission from the firm. The findings also stated that the customer was not a member of Golembiesky's immediate family and the loan was thus prohibited under the firm's written procedures. The findings also included that by the time the firm became aware that Golembiesky had borrowed money from the customer, Golembiesky had repaid the customer \$10,000 on the loan. FINRA found that the firm's bank affiliate repaid the balance of the loan to the customer's estate. FINRA also found that the bank and Golembiesky entered into an agreement whereby Golembiesky promised to pay the bank \$22,275 plus any applicable interest; Golembiesky has reduced the outstanding balance to \$10,000.

The suspension was in effect from August 1, 2011, through August 30, 2011. ([FINRA Case #2011026436301](#))

Larry Richard Gregory (CRD #2308559, Registered Representative, Norfolk, Virginia) 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, Gregory consented to the described sanction and to the entry of findings that he served as vice president and board member of a purported charitable foundation he managed with other non-registered principals, and unbeknownst to his member firm, he effected the transfer of approximately \$400,000 from member firm customers (most of whom are now deceased) to the foundation as supposed donations; Gregory transferred nearly \$184,000 of that amount to the foundation from the sole known surviving donor

customer's brokerage account. The findings stated that for almost seven years, Gregory, in conjunction with the other non-registered principals, collectively converted for their personal use a total of \$79,444.70 from the foundation account they controlled, which was maintained at Gregory's member firm. The findings also stated that the money generally was used to fund the educations of the principals' relatives; Gregory personally converted a total of \$26,619.45 of that amount for his own personal use. The findings also included that for more than a decade while associated with both the foundation and his member firm, Gregory failed to disclose to his firm his officer and director positions and role in a business activity outside the scope of his relationship with his firm; Gregory did not disclose his association with the foundations until after the firm undertook an internal review of his activities related to the foundation. FINRA found that Gregory assisted an elderly customer in causing a bank to issue him a \$40,061.48 check as a gift from the customer, contrary to his firm's WSPs that required associated persons, including Gregory, to notify the firm of, and receive approval for any non-*de minimis* gifts received from customers; the procedures also placed an annual \$100 cap on customer gifts. FINRA also found that Gregory failed to disclose, and receive written approval for, the \$40,061.48 gift, violating his firm's WSPs. In addition, FINRA determined that as a result of his violations of the firm's procedures, Gregory impeded his firm's ability to effectively supervise over subjects of regulatory importance, including, but not limited to, issues relevant to customer protection. ([FINRA Case #2011026406001](#))

John Rolland Haeffele (CRD #1382849, Registered Representative, East Peoria, 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, Haeffele consented to the described sanction and to the entry of findings that he was appointed as a co-trustee for a trust and, wrongfully and without authorization, disbursed funds to himself from the trust's mutual fund accounts and checking accounts. The findings stated that Haeffele was appointed as a co-trustee for another trust, which owned life insurance policies for which Haeffele was the agent of record on, and Haeffele, wrongfully and without authorization, disbursed funds to himself from the life insurance policies held in the name of the trust. The findings also stated that Haeffele used the funds from both trusts for his own benefit, thereby converting assets from the trusts. The findings also included that Haeffele, as trustee, received account statements for the first trust from mutual fund issuers, but only provided the trust's creators false and misleading account statements and related correspondence that he created on his computer for the trust. FINRA found that the fabricated account statements and correspondence grossly overstated the value of the trust's assets. FINRA also found that Haeffele failed to provide written notice to his member firm that he had been serving as a trustee for the trusts, and had been receiving compensation for such activities. In addition, FINRA determined that Haeffele completed a series of questionnaires submitted to the firm in which he failed to disclose that he was serving as a trustee and receiving compensation. ([FINRA Case #2009019590501](#))

Thomas William Hands (CRD #1332915, Registered Principal, Boca Raton, Florida) submitted an Offer of Settlement in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for 15 business days. Without admitting or denying the allegations, Hands consented to the described sanctions and to the entry of findings that he submitted inaccurate attestations to FINRA certifying that, among other things, his member firm's compensation committee had reviewed and approved each research analyst's compensation and documented the basis upon which the compensation was established. The findings stated that Hands understood the importance of an accurate attestation because he submitted an inaccurate one after he was aware that FINRA was investigating whether a firm research analyst's activities violated NASD Rule 2711.

The suspension was in effect from August 1, 2011, through August 19, 2011. ([FINRA Case #2009016158501](#))

Jan David Henderson (CRD #2401845, Registered Representative, Midway, Utah) 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, Henderson consented to the described sanction and to the entry of findings that he engaged in a pattern of unsuitable variable annuity switch transactions in which he executed unsuitable variable annuity switches involving customers. The findings stated that Henderson would switch customers from their existing fixed and/or variable annuities into a specific variable annuity, thereby improperly earning additional commissions at the expense of customers who paid substantial surrender fees; for these switches, customers paid approximately \$208,000 in surrender penalties and Henderson received approximately \$380,235 in commissions. The findings also stated that Henderson executed these variable annuity replacement transactions without regard to the substantial surrender charges imposed or the extension of the surrender periods for his customers. The findings also included that Henderson utilized a "one-size-fits-all" investment strategy for the customers, which was not suitable for his diverse client base. FINRA found that Henderson failed to research and understand the salient features of the variable annuity, such as the other investment options and other riders available to his customers, and only selected and discussed with his customers the same single investment option and the same single rider for all customers; in fact, Henderson, before even selling the variable annuity to any of his customers, had already predetermined that he would sell his customers the same single investment option and the same single rider, based largely, if not exclusively, on representations a wholesaler made to him without conducting any of his own independent research or analysis. FINRA also found that Henderson marketed the variable annuity to his customers based on the rider's purported benefits; however, Henderson failed to correctly and accurately complete the variable annuity paperwork, which resulted in some of his customers not receiving the promised protection of a rider that he recommended at the time of the sale, thereby causing his member firm's books and records to be inaccurate. ([FINRA Case #2009019513901](#))

Richard Barry Holody (CRD #249126, Registered Representative, San Jose, California) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for four months. The fine must be paid either immediately upon Holody'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, Holody consented to the described sanctions and to the entry of findings that he sold equity-indexed annuities (EIAs) to individuals, through insurance companies, with investments totaling approximately \$1,002,555, without providing prompt written notice to his member firm; none of these individuals were customers of his firm. The findings stated that Holody received commissions of approximately \$79,594.34 from these sales. The findings also stated that the firm prohibited its representatives from selling EIAs not on the firm's approved product list; the annuities Holody sold were not on the approved product list and his acceptance of compensation for the sales constituted engaging in an outside business activity. The findings also included that Holody recommended that a retired individual liquidate some variable annuity contracts and transfer the proceeds to purchase an EIA an insurance corporation issued. FINRA found that Holody processed all of the paperwork on the individual's behalf to effect the variable annuity contract liquidations to purchase the EIA contract, and the insurance corporation issued a nine-year term EIA contract in the approximate amount of \$253,997.37. FINRA also found that as a result of these transactions, the individual lost approximately \$49,604 in enhanced guaranteed death benefits available under the variable annuity contracts that the individual could never recover. In addition, FINRA determined that the insurance corporation EIA contract was also not beneficial to the individual since the variable annuity contracts offered the individual other more favorable features. Moreover, FINRA found that based on the individual's disclosed investment objectives of guaranteed returns on his retirement assets and to provide for his beneficiaries, and the individual's financial situation and needs, Holody lacked reasonable grounds to believe that liquidating the variable annuities to generate funds for the purchase of the EIA contract was suitable for the individual.

The suspension is in effect from August 1, 2011, through November 30, 2011. ([FINRA Case #2010022152201](#))

Nicholas Hupka (CRD #5675589, Associated Person, Bellevue, Washington) submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Hupka'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, Hupka consented to the described sanctions and to the entry of findings that he willfully failed to disclose material information on a Form U4.

The suspension is in effect from August 1, 2011, through January 31, 2012. ([FINRA Case #2009018670101](#))

Jason Forsythe Jacobs (CRD #4558154, Registered Representative, Austin, Texas) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for 45 days. The fine must be paid either immediately upon Jacobs' 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, Jacobs consented to the described sanctions and to the entry of findings that he attempted to share, directly or indirectly, in the profits and/or losses of a customer account his member firm carried without his firm's and the customer's prior written authorization. The findings stated that Jacobs made trading errors in the customer's account and in an attempt to correct the losses that resulted from the errors, he began engaging in short-term short sale activity that resulted in further losses. The findings also stated that rather than report his concerns to his firm, Jacobs attempted to avoid a customer complaint by depositing funds, totaling approximately \$13,398.80, into the customer's account.

The suspension was in effect from August 1, 2011, through September 14, 2011. ([FINRA Case #2010022262601](#))

Matthew Sunghoon Kim (CRD #5759710, Registered Representative, Foster City, 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, Kim consented to the described sanction and to the entry of findings that he cheated on the Series 7 qualification examination. The findings stated that during the test, Kim took unscheduled bathroom breaks lasting between three and eight minutes long, and during these breaks, he reviewed notes pertaining to the examination that he had previously concealed in one of the bathroom stalls. ([FINRA Case #2010023500401](#))

David John Klecka Jr. (CRD #5036893, Registered Principal, Phoenix, Arizona) 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, Klecka consented to the described sanction and to the entry of findings that he created a non-genuine email purporting to be from the Arizona Department of Insurance (AZ DOI) regarding the agency's investigation into Klecka's activities at his former firm, and then provided a copy of the email to the member firm with which he was associated. The findings stated that Klecka's firm commenced an internal investigation of Klecka concerning questionable business activities related to his sale of life insurance policies. The findings also stated that during the course of the firm's review, it was learned that Klecka was the subject of an investigation being conducted by the state regarding activities that occurred while Klecka was associated with another member firm. The findings also included that Klecka forwarded an email from his personal email address to his managing director at the firm; Klecka purportedly received the forwarded email from the state insurance department, which contained a timeline documenting Klecka's contact with the agency, and the email bore what appeared to be the typed signature of an investigator with the AZ DOI. FINRA

found that Klecka admitted that he was not truthful on the dates and fabricated the email to lead his firm to believe that the state investigation was more recent than it actually was; the forged document would provide an explanation for Klecka's failure to disclose the investigation to the firm earlier than he did. FINRA also found that the firm subsequently terminated Klecka for, among other reasons, creating a non-genuine email purporting to be from the AZ DOI regarding its investigation into Klecka's activities at his former firm. In addition, FINRA determined that Klecka failed to appear for a FINRA on-the-record interview. ([FINRA Case #2010021189601](#))

Carmela Lina Moro Knieriem (CRD #1163792, Registered Representative, San Diego, California) submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity for 60 days. The fine must be paid either immediately upon Knieriem'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, Knieriem consented to the described sanctions and to the entry of findings that she was a registered customer service associate in a branch of her member firm, where she was assigned to assist branch financial advisors and other employees, including the branch manager, with administrative duties, including preparation of certain internal administrative forms in documenting and processing requests the branch manager or financial advisor received verbally from a customer. The findings stated that Knieriem prepared the forms for approval and signed the names of the relevant firm employee who received the verbal instruction without authorization to sign the forms and submitted them for processing.

The suspension is in effect from July 18, 2011, through September 15, 2011. ([FINRA Case #2010024724901](#))

Charles William Kromer Jr. (CRD #1068867, Registered Representative, Cincinnati, Ohio) 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, Kromer consented to the described sanction and to the entry of findings that he engaged in unsuitable variable annuity switches for customers. The findings stated that the transactions were unsuitable because of the costs incurred, including substantial surrender charges, higher administrative fees and costs of additional riders, along with other disadvantages of a new variable annuity, including longer surrender periods, higher initial surrender fees and higher threshold for withdrawing funds without penalty. The findings also stated that Kromer did not take into account his customers' ages, incomes and investment strategies. The findings also included that in connection with the unsuitable variable annuity purchases, Kromer made misstatements and omissions of material facts to customers to induce them to switch variable annuities through improperly completing sales data sheet and explanation of investment forms, which customers reviewed and signed, and by failing to explain why switching variable annuities was more advantageous than continuing to hold the variable

annuities the customers already owned. FINRA found that on the application forms, Kromer falsely indicated the customer's objectives and labeled the transactions as unsolicited when they were not. FINRA also found that Kromer engaged in the unsuitable switches so that he could continue to receive compensation for variable annuity contracts customers held after he moved his registration to another member firm. ([FINRA Case #2005002244102](#))

John Benjamin Langsett (CRD #5609011, Associated Person, Fort Lauderdale, Florida) submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 30 business days. Without admitting or denying the allegations, Langsett consented to the described sanctions and to the entry of findings that he submitted, or caused to be submitted, to FINRA a Form U4 that was materially false or inaccurate.

The suspension was in effect from July 18, 2011, through August 26, 2011. ([FINRA Case #2009018582501](#))

Jeffrey L. Larson (CRD #4816797, Registered Representative, Canyon Country, California) submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Larson consented to the described sanction and to the entry of findings that he represented to an elderly widow that she could earn a higher rate of return by investing her funds in a particular high-interest savings account; at the time, she was not his member firm's customer. The findings stated that based on Larson's recommendation and direction, the elderly widow wrote checks totaling \$51,600 payable to the "W.F.G. Fund," and gave the checks to Larson who, in turn, promptly deposited the checks into a W.F.G. Fund account at a bank. The findings also stated that contrary to Larson's representations, the W.F.G. Fund was not a high-interest savings account, had no relation to his firm's affiliate bank, and was a basic checking account that Larson owned and controlled. The findings also included that within two weeks of the receipt and deposit of the customer's checks, Larson withdrew \$6,000 and transferred \$27,800 to his day-trading account (at another broker-dealer) and \$17,500 to his credit union account, converting the funds for his own use and benefit without the customer's knowledge, consent or authorization. FINRA found that the customer complained to FINRA and others about Larson's conduct; Larson then returned the funds to her. FINRA also found that Larson failed to appear for FINRA on-the-record testimony. ([FINRA Case #2010021928801](#))

Steven Alan Markowitz (CRD #1299315, Registered Principal, Staten Island, New York) submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Markowitz consented to the described sanction and to the entry of findings that he failed to appear for investigative testimony to determine whether his firm or persons formerly associated with the firm violated the anti-fraud provisions of federal securities laws and FINRA rules. The findings stated that as a result, FINRA was prevented from pursuing certain areas of its investigation. ([FINRA Case #2007011366403](#))

Marilyn Geen Martindell (CRD #3137775, Registered Representative, Colorado Springs, Colorado) submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$10,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Martindell'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, Martindell consented to the described sanctions and to the entry of findings that she forged the signatures of her immediate supervisor and of her branch manager at her member firm. The findings stated that Martindell signed the name of her supervisor, a firm financial advisor, to firm documents titled "Advice of Trade" letters without the financial advisor's authorization or consent and mailed the letters to the customers involved; each of these letters informed a firm customer of trades that had been effected in that customer's account. The findings also stated that Martindell signed her branch manager's name to an internal firm form authorizing the transfer of funds and securities from the account of a customer to a joint account held by the customer and the customer's relative. FINRA found that Martindell signed the branch manager's name on another internal firm form that memorialized the multiple names that another customer could use in signing documents related to his account. FINRA also found that Martindell completed an IRA distribution form for her own account in order to access funds held in that account and Martindell again signed her branch manager's name on this form. In addition, FINRA determined that Martindell signed the branch manager's name on these forms without his authorization or consent, and submitted the forms for further processing.

The suspension is in effect from August 1, 2011, through January 31, 2012. ([FINRA Case #2009020518901](#))

Victoria Elizabeth McGee-Harris (CRD #1183259, Registered Representative, St. Louis, Missouri) submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, McGee-Harris consented to the described sanction and to the entry of findings that she engaged in a fraudulent scheme whereby she enticed numerous clients into paying her millions of dollars for various investment and insurance products that she never purchased. The findings stated that instead, McGee-Harris, without the customers' knowledge or consent, diverted, deposited and commingled the funds into accounts she controlled at various banks for her personal use. ([FINRA Case #2010021363601](#))

Brent Aaron Morita (CRD #4638841, Registered Representative, Fountain Valley, California) submitted an Offer of Settlement in which he was suspended from association with any FINRA member in any capacity for six months. In light of Morita's financial status, no monetary sanctions have been imposed. Without admitting or denying the allegations, Morita consented to the described sanction and to the entry of findings that he willfully failed to amend his Form U4 to disclose a felony charge and conviction.

The suspension is in effect from July 18, 2011, through January 17, 2012. ([FINRA Case #2010023830101](#))

Richard Thomas Morrison (CRD #1194260, Registered Principal, Goffstown, New Hampshire) Kimberly Ann Morrison (CRD #4572682, Registered Representative, Goffstown, New Hampshire). Richard Morrison was barred from association with any FINRA member in any capacity. Kimberly Morrison was fined \$10,000 and suspended from association with any FINRA member in any capacity for one year. Kimberly Morrison's fine is due and payable if and when she re-enters the securities industries. The sanctions were based on findings that Kimberly and Richard Morrison engaged in outside business activities without providing their member firm with written notice of their outside business activities. The findings stated that for nearly three years, Richard Morrison was the agent for transactions in annuities, which his firm had not approved for sale, that he sold through an insurance agency. The findings also stated that in connection with these transactions, Richard Morrison met with customers, recommended that the customers purchase the annuities, completed and signed transaction paperwork and earned approximately \$425,000 in commissions. The findings also included that Richard Morrison failed to disclose the outside activities to his firm on annual questionnaires and actively concealed his outside business activities from his firm. FINRA found that Richard Morrison had employees of the insurance agency sign paperwork effecting the exchanges; in each of these instances, he signed and was identified as the agent of record on the application that was sent to the insurance company that issued the new policy that was purchased. FINRA also found that the insurance agency employees signed the exchange request forms that were sent to Richard Morrison's firm instructing it to surrender a policy and forward the proceeds for the purchase of a new policy; as a result, his firm did not see that he had recommended and was the agent for the transactions. In addition, FINRA determined that for nearly two years, Kimberly Morrison was listed as the agent for transactions in annuities that took place away from her firm. Moreover, FINRA found that in connection with these transactions, Kimberly Morrison telephoned customers to solicit them to meet with Richard Morrison and/or herself, accompanied Richard Morrison to some meetings with customers, and completed and signed transaction paperwork as the agent of record. Furthermore, FINRA found that the insurance agency paid Kimberly Morrison \$7,483.53 in commissions on the transactions; she did not notify her firm of her involvement in any of the transactions, and did not disclose them in her firm's annual broker questionnaire.

The suspension is in effect from August 1, 2011, through July 31, 2012. ([FINRA Case #2008013683902](#))

Frank Patrick O'Lear Jr. (CRD #827498, Registered Supervisor, Leesburg, Georgia) 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 20 business days. The fine must be paid either immediately upon O'Lear'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, O'Lear consented to the described sanctions and to the entry of findings that he failed to execute a customer's sale of preferred stocks in her account as instructed, and

when the customer complained to his member firm, he provided her with a \$6,866 check to settle her losses. The findings stated that the customer deposited O'Lear's check which was declined for insufficient funds; O'Lear wrote a second check for \$6,900, including the non-sufficient fund (NSF) charges, which the customer deposited and the check cleared. The findings also stated that O'Lear made this payment to the customer without his firm's knowledge or authorization.

The suspension was in effect from July 18, 2011, through August 12, 2011. ([FINRA Case #2010022872001](#))

John Thomas Pappas (CRD #4240283, Registered Representative, Helena, 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, Pappas consented to the described sanction and to the entry of findings that he converted funds totaling \$157,563.75 from customer accounts, without the customers' knowledge or authorization, and attempted to convert an additional \$14,260 from another customer account. The findings stated that in each instance, Pappas misappropriated the funds by activating the online bill payment feature in the clients' accounts and then directed payments to his personal credit cards. The findings also stated that Pappas placed an unauthorized trade totaling \$6,893.43 in a deceased firm customer's account. FINRA found that Pappas refused to respond to FINRA requests for information and testimony. ([FINRA Case #2010021962101](#))

Juan J. Perez Jr. (CRD #5467624, Registered Representative, Spring, Texas) was barred from association with any FINRA member in any capacity and ordered to pay \$3,162 in restitution to a bank. The sanctions were based on findings that Perez used the computers of fellow employees when they stepped away from their workstations to effect NSF fee refunds without his employer bank's authorization. The findings stated that Perez made NSF fee refunds to his own account, totaling approximately \$2,357 and caused NSF refunds to be credited to a friend's account for a total of \$805, causing the bank a total loss of \$3,162. The findings also included that Perez provided a signed statement admitting making the unauthorized refunds and acknowledging that the refunds violated bank policies and procedures. ([FINRA Case #2009017437001](#))

Scott Roy Pierson (CRD #4825553, Registered Representative, Vernon, Connecticut) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$15,000, suspended from association with any FINRA member in any capacity for one year and required to requalify as an investment company/variable contract products representative. The fine must be paid either immediately upon Pierson'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, Pierson consented to the described sanctions and to the entry of findings that he administered an insurance company's insurance CE instruction program

for his member firm, and because of a heavy workload, he got behind in the administration of the program. The findings stated that the backlog resulted in expired courses being taught and the late filing of courses, instructor approval requests and attendance rosters with states. The findings also stated that to cover up these problems, Pierson issued false CE completion certificates to course attendees and substituted on CE completion certificates the names of state-certified instructors for courses uncertified instructors taught. The findings also included that CE courses require annual or biannual renewals in some states, and Pierson allowed courses to expire without renewal; Pierson wasn't aware the courses had expired until after they had been taught. FINRA found that on one occasion Pierson issued certificates of completion for approved courses as opposed to the expired courses that were actually presented and did this over approximately a five-year period. FINRA also found that on one occasion Pierson issued CE completion certificates to course attendees for one hour of credit that had not been taught. In addition, FINRA determined that Pierson substituted the names of state-certified instructors on CE completion certificates to conceal the fact that the instructors who actually taught the courses were not certified at the time the courses were taught.

The suspension is in effect from July 18, 2011, through July 17, 2012. ([FINRA Case #2009020572801](#))

Joseph Andrew Reed (CRD #2493302, Registered Representative, Mountaintop, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 20 business days. In determining sanctions, FINRA took into account Reed's prior suspension by his member firm for the same conduct. Without admitting or denying the findings, Reed consented to the described sanctions and to the entry of findings that he placed discretionary transactions in customers' securities accounts without having the customers' written authorization to place the discretionary trades and his firm had not approved Reed's use of discretion in the customers' accounts. The findings stated that Reed falsely represented on the firm's annual compliance certification questionnaires that he had not exercised discretion in any customer's account.

The suspension is in effect from September 6, 2011, through October 3, 2011. ([FINRA Case #2009016529401](#))

Jerry Jason Rice (CRD #4203426, Registered Representative, Fresno, California) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Rice failed to respond to FINRA requests for information and to provide testimony. The findings stated that Rice executed an unauthorized trade in a customer's account by purchasing bonds for the account without the customer's knowledge or authorization. ([FINRA Case #2008014507101](#))

Lazaro E. Salado (CRD #2899323, Registered Representative, Miami, Florida) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Salado misappropriated \$186,114.28 from customers by causing his member firm to issue checks drawn on customers' bank accounts made payable to his bank loan account. The findings stated that the checks bore signatures purporting to be that of the customers; however, none of the customers authorized the withdrawals or signed the checks. The findings also stated that Salado failed to respond to FINRA requests for information. ([FINRA Case #2009021081301](#))

Joseph Sorbara (CRD #1001403, Registered Principal, Muttontown, New York) submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Sorbara consented to the described sanction and to the entry of findings that he failed to appear for investigative testimony to determine whether his firm or persons formerly associated with the firm violated the anti-fraud provisions of federal securities laws and FINRA rules. The findings stated that as a result, FINRA was prevented from pursuing certain areas of its investigation. ([FINRA Case #2007011366403](#))

Andrew George Spotts (CRD #2660556, Registered Representative, Hummelstown, Pennsylvania) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Spotts wrongfully misappropriated approximately \$197,860 from a coworker at his member firm. The findings stated that Spotts took blank personal checks belonging to the coworker and forged the coworker's name on the checks without the coworker's knowledge or authorization. The findings also stated that Spotts made some of the checks payable to himself and deposited the checks into his personal account, or made the checks payable to credit card companies and other creditors to pay his personal bills. The findings also included that Spotts failed to appear and testify at an on-the-record interview. ([FINRA Case #2009018661801](#))

Terry Tin Sing Tang (CRD #2625824, Registered Principal, Los Angeles, California) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$33,775.20, which includes disgorgement of a \$28,775.20 commission received, and suspended from association with any FINRA member in any capacity for 10 business days. Without admitting or denying the findings, Tang consented to the described sanctions and to the entry of findings that he opened an account at his member firm on customers' behalf based upon the representations of a registered representative at another FINRA member firm. The findings stated that Tang never met or spoke directly with the customers; instead, all of Tang's communications with the customers were through the registered representative. The findings also stated that Tang caused a variable annuity, in the amount of \$532,874.02, to be purchased in the customers' account based upon an order from the registered representative; Tang received \$28,775.20 in net commission for the transaction but his firm never granted him authority to place third-party orders in the customers' account.

The findings included that Tang failed to notify his firm that a third-party placed a variable annuity order and failed to obtain the firm's approval to cause this third-party order to be executed in the customers' account.

The suspension was in effect from August 1, 2011, through August 12, 2011. ([FINRA Case #2010021897401](#))

Daniel L. Thompson (CRD #5619425, Registered Representative, Irving, 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, Thompson consented to the described sanction and to the entry of findings that he withdrew \$1,465 in cash from a customer's bank checking account by signing the customer's signature on a bank withdrawal slip without the customer's knowledge or consent, and converted the customer's funds for his own use and benefit. ([FINRA Case #2010022963701](#))

John Edward Turrell II (CRD #1347367, Registered Principal, Marysville, 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, Turrell consented to the described sanction and to the entry of findings that he failed to appear for FINRA on-the-record interviews. The findings stated that while associated with his member firm, Turrell serviced some accounts at another FINRA broker-dealer and conducted securities transactions in these accounts; some of these accounts had been open for several years. The findings stated that Turrell did not give any notice, written or otherwise, to his firm, that he was engaging in securities transactions in these accounts. The findings also stated that Turrell did not give any notice, written or otherwise, to the other FINRA broker-dealer that he was associated with a member firm. ([FINRA Case #2011027261501](#))

Patricia Kathleen Valentine (CRD #4431712, Registered Representative, West Monroe, Louisiana) submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity for one month. The fine must be paid either immediately upon Valentine'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, Valentine consented to the described sanctions and to the entry of findings that she falsified customers' signatures on documents without the customers' knowledge or authorization. The findings stated that Valentine's member firm discovered that she had cut a customer's signature from an account document and affixed the signature to a third-party vendor's IRS Section 403(b) disclosure statement. The findings also stated that thereafter, the firm reviewed all of Valentine's securities files and found other instances where Valentine had falsified customer signatures; Valentine had cut and pasted customers' signatures to IRS Section 403(b) salary reduction agreements without their authorization. The findings also included that the salary reduction agreements

authorized the customer's employer to withhold money from his or her salary to be invested in an IRS Section 403(b) plan; in both instances, the customers authorized the reductions, but had failed to sign the forms.

The suspension was in effect from August 1, 2011, through August 31, 2011. ([FINRA Case #2010024452001](#))

Pamela Diane Warren (CRD #5429797, Registered Representative, Bend, Oregon) submitted an Offer of Settlement in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Warren consented to the described sanction and to the entry of findings that she failed to appear to provide testimony as requested by FINRA. ([FINRA Case #2009019739101](#))

Decisions Issued

The Office of Hearing Officers (OHO) issued the following decisions, which have been appealed to or called for review by the NAC as of July 31, 2011. The NAC may increase, decrease, modify or reverse the findings and sanctions imposed the decisions. Initial decisions where the time for appeal has not yet expired will be reported in future issues of FINRA Disciplinary and Other Actions.

Peter Martin Peterson (CRD #2825535, Registered Principal, Tampa, Florida) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Peterson failed to produce documents FINRA requested.

Peterson appealed the decision to the NAC and the sanction is not in effect pending the appeal. ([FINRA Case #2009017968701](#))

Vision Securities Inc. (CRD #35001, Port Washington, New York) and Daniel James Gallagher (CRD #2092711, Registered Representative, Port Washington, New York). The firm was censured and fined \$60,000. Gallagher was barred from association with any FINRA member in any capacity. The sanctions were based on findings that Gallagher acted as a principal of his member firm without being registered as such and the firm allowed Gallagher to act in an unregistered capacity. The findings stated that Gallagher failed to adhere to the heightened supervisory requirements FINRA imposed and the agreements he entered into with three states; because of his controlling role at the firm and the transitory nature of supervision at the firm, he was able to sidestep the heightened supervision requirements. The findings also stated that the firm failed to ensure that Gallagher's heightened supervisory requirements from the states and FINRA were being followed, and failed to have a system to adequately monitor Gallagher's compliance. The findings also included that Gallagher was responsible for the firm adhering to the requirements to establish, maintain and enforce written supervisory control policies and ensuring the completion of an annual certification certifying that the firm had in place processes to establish, maintain, review, test and modify written compliance policies and WSPs to comply with applicable securities rules and regulations.

FINRA found that the firm failed to conduct the analysis required to determine whether, as a producing manager, Gallagher should have been subjected to the heightened supervision requirements. FINRA also found that the firm failed to establish, maintain and enforce written supervisory control policies and procedures and failed to identify at least one principal who would establish, maintain and enforce written supervisory control policies and procedures. In addition, FINRA determined that the firm, through Gallagher, failed to ensure that an annual certification was complete, certifying it had in place processes to establish, maintain, review, test and modify written compliance policies and WSPs to comply with applicable securities rules and regulations. Moreover, FINRA found that the firm failed to report customer complaints against Gallagher and one customer-initiated lawsuit in which he was listed as a defendant. Furthermore, FINRA found that the firm failed to make the necessary and required updates to Forms U4 and U5 for representatives to reflect customer complaints, arbitrations and lawsuits within the required 30 days. The findings also stated that the firm failed to conduct and evidence an independent test of its AML program, and failed to conduct and evidence an annual training program of its CE program for its covered registered persons. The findings also included that while testifying at a FINRA on-the-record interview, Gallagher failed to respond to questions. FINRA found that Gallagher willfully failed to timely amend his Form U4 with material facts.

Gallagher appealed the decision to the NAC and the sanction is not in effect pending the appeal. ([FINRA Case #2008011701203](#))

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.

Carolyn Avia Harmon (CRD #4126542, Associated Person, Lenoir, North Carolina) was named as a respondent in a FINRA complaint alleging that as a branch office administrator at her member firm, she was responsible for administrative processing of account transfers, openings and closings. The complaint alleges that Harmon opened separate accounts in her name and a relative's name, deposited funds intended for certain customer accounts at the firm into her relative's account and transferred the majority of the funds into her account to pay personal bills. The complaint also alleges that Harmon improperly deposited other customers' checks into a firm account Harmon and her relative jointly held. The complaint further alleges that the firm discovered the activity when checks that were intended to be deposited into customers' account were never received into those accounts. In addition, the complaint alleges that although initially Harmon stated she did not know why the funds

were deposited into her relative's account, she eventually admitted to diverting the funds to assist a relative living in a group home. Moreover, the complaint alleges that Harmon failed to respond to FINRA requests for additional information and documents. ([FINRA Case #2009021041501](#))

Ronald John Kambic (CRD #1920540, Registered Representative, Evergreen, Colorado) was named as a respondent in a FINRA complaint alleging that he converted retirement contributions totaling approximately \$9,282.40 from employees of an entity he owned. The complaint alleges that Kambic's entity employed individuals who had funds withdrawn from their pay as contributions to a tax-deferred retirement account. The complaint also alleges that Kambic failed to deposit the funds into the employees' Simple IRAs and, instead, used the employees' funds to finance the entity's business operations, without the employees' knowledge or consent. The complaint further alleges that Kambic failed to provide FINRA with requested information and documents. ([FINRA Case #2009016564601](#))

Charles Tuttle Mason (CRD #2206257, Registered Principal, St. Pete Beach, Florida) and Darren Duane Gibson (CRD #2311950, Registered Representative, Oceanside, California) were named as respondents in a FINRA complaint alleging that with knowledge or scienter of a fraudulent scheme orchestrated by principals of their member firm, and as a part of and in furtherance of the scheme to defraud investors, Mason and Gibson, while employed as the national wholesalers at their firm, substantially assisted in the achievement of the fraudulent scheme and aided and abetted fraud in connection with the purchase or sale of securities offerings. The complaint alleges that that Gibson, through his wholesaling efforts related to the entity's offerings, secured selling agreements from retail broker-dealers, who in turn raised over \$300 million from investors; during Gibson's employment at the firm, he earned \$2,930,000. The complaint also alleges that Mason, through his wholesaling efforts related to the offerings, secured selling agreements from broker-dealers, who in turn raised over \$132 million from investors; Mason earned approximately \$2,000,000. The complaint further alleges that Gibson and Mason assisted the retail broker-dealers with product training by providing sales and marketing materials designed to encourage individual investors to purchase the offerings. In addition, the complaint alleges that Gibson and Mason had prior experience as wholesalers but neither had any experience in the oil and gas industry or in marketing energy private placements. Moreover, the complaint alleges that although the principals at their firm originally told Gibson and Mason that the issuer's undisclosed owner and control person had a significant ownership stake in the issuer, neither questioned why his role was never disclosed in the offering documents. Furthermore, the complaint alleges that throughout their employment at their firm, Mason and Gibson read most of the third-party due diligence reports produced for the offerings but ignored indications of multiple red flags contained in those reports. ([FINRA Case #2011026598101](#))

Vicki Lee Perchinske (CRD #2628617, Registered Representative, Canton, Ohio) was named as a respondent in a FINRA complaint alleging that she made improper use of, and converted approximately \$430,420.71 in funds from customers by causing funds to be withdrawn from their accounts held at a bank affiliated with her member firm and from customer annuities and mutual fund holdings at other financial institutions, and used the proceeds to purchase cashier's checks, which were deposited into Perchinske's personal bank account. The complaint alleges that none of the customers authorized any of the liquidations, withdrawals or redemptions. The complaint also alleges that Perchinske failed to respond to FINRA requests to appear for testimony. ([FINRA Case #2010024843701](#))

Neil Seth Smalbach (CRD #1459854, Registered Principal, Palm Harbor, Florida) was named as a respondent in a FINRA complaint alleging that he made fraudulent misrepresentations and material omissions to customers when selling preferred shares in an entity's private placements. The complaint alleges that Smalbach falsely told investors that their investment in the entity was a safe high-yield investment, virtually guaranteeing the customers an 18-percent yearly dividend and the return of their principal in three years; Smalbach omitted to tell the customers about the high degree of risk associated with this start-up natural gas and oil investment. The complaint also alleges that Smalbach claimed to have conducted his own due diligence on the entity which included reviewing the private placement memorandum, subscription agreement, promotional material and speaking with employees of the entity and his member firm's due diligence personnel. The complaint further alleges that Smalbach responded to customer questions with a series of misrepresentations and material omissions that the investment was safe, the customers could not lose money, the company had been in business for years, no customer had lost money, the company had never hit a dry well and investing in the entity was like investing in a certificate of deposit. In addition, the complaint alleges that the entity was not a safe investment but was an investment in an oil and gas startup company with no significant assets, cash flow or operating history and was only suitable for customers who could afford the loss of their entire investment. Moreover, the complaint alleges that Smalbach knew or was reckless in knowing these facts which were disclosed in the entity subscription agreement and the private placement memorandum; Smalbach also stated that the entity paid such a high return because banks would not lend money to an oil and gas venture, which is patently false. Furthermore, the complaint alleges that the investments were unsuitable for Smalbach's customers because of their advanced age, conservative risk tolerance, limited investment experience and modest financial resources; also, the retirees needed to preserve their capital during their retirements. The complaint also alleges that as a result of these fraudulent misrepresentations, omissions and acts, Smalbach caused the customers who invested to sustain approximately \$840,116 in net out-of-pocket losses on the \$925,000 investment that was purchased for them; for these customers, Smalbach received \$74,000 in gross commissions from his activities and subsequent to these investments, the entity had been exposed as a \$480 million Ponzi scheme. The complaint further alleges that in order to obtain his firm's approval for the trades and to receive

lucrative commissions, Smalbach caused firm client information forms and subscription agreements to be falsely completed so that the prospective customer would appear to be experienced and accredited investors, and suitable for the investment; thereby causing his firm's books and records to be inaccurate. In addition, the complaint alleges that Smalbach failed to cooperate with FINRA requests for information and documents. ([FINRA Case #2010021972801](#))

Yevgeniya N. Stradling aka Jena N. Stradling (CRD #4622048, Registered Representative, Gilbert, Arizona) was named as a respondent in a FINRA complaint alleging that she misappropriated \$1,000 of insurance premiums paid by a customer of her member firm's insurance affiliate. The complaint alleges that Stradling deposited checks, each in the amount of \$500, into her business checking account, thereby commingling the customer's premium payments with her own funds. The complaint also alleges that Stradling used the customer's premium payments to pay her own expenses. The complaint further alleges that during a special audit the insurance company performed after receiving a complaint from the customer, Stradling admitted in a signed statement to accepting the two \$500 premium payments from the insurance customer and using the check proceeds for her personal benefit. In addition, the complaint alleges that the insurance company made the customer whole and Stradling repaid the firm after she was caught. Moreover, the complaint alleges that Stradling failed to respond to FINRA requests that she provide information, documents and appear to testify. ([FINRA Case #2010023036701](#))

Angel Luis Suarez (CRD #3116550, Registered Principal, Briarwood, New York) was named as a respondent in a FINRA complaint alleging that he effected, or caused to be effected, securities transactions in a customer account at his member firm without the customer's knowledge, authority or consent. The complaint alleges that Suarez failed to respond to FINRA requests for information. ([FINRA Case #2009019953501](#))

Douglas Eugene Vannoy (CRD #2711538, Registered Representative, Kingsville, Texas) was named as a respondent in a FINRA complaint alleging that he served as the registered representative for the accounts of a customer of his member firm; an estate account was opened for the customer after his death. The complaint alleges that Vannoy opened a sole proprietorship account in the deceased customer's name for Vannoy's company; the customer purportedly signed the account application and a notarized sole proprietor affidavit. The complaint also alleges that Vannoy caused approximately \$20,750 to be deposited into the account from the customer's other firm accounts or personal funds, and caused the funds to be paid to his company from the account through a letter of authorization to the firm and checks written from the account checkbook, all of which the customer purportedly signed. The complaint further alleges that Vannoy deposited the funds into his personal checking account, without the authorization of the customer or the executrix of the customer's estate. In addition, the complaint alleges that Vannoy submitted inaccurate death claim documentation for the deceased customer, including an altered version of the death certificate to his firm's IRA processing department to liquidate

an annuity held in the customer's IRA as a result of his death. Moreover, the complaint alleges that Vannoy failed to respond to FINRA requests to appear and provide testimony. ([FINRA Case #2009018085001](#))

Jerod Andrew Wurm (CRD #2861953, Registered Principal, El Dorado Hills, California) was named as a respondent in a FINRA complaint alleging that he recommended to a widow that she obtain a \$315,000 mortgage on a home she owned free and clear and invest \$300,000 of the proceeds in a variable annuity that he should have known was unsuitable because she had limited income, wished to retire in seven years and had limited or no resources to increase the principal available to support herself through retirement other than her present assets. The complaint alleges that Wurm referred the customer to a firm affiliate company to obtain the mortgage for which he received a \$1,225 referral fee. The complaint also alleges that Wurm received a \$4,725 commission, approximately one-half of the gross commission paid on the annuity purchase. The complaint further alleges that Wurm's recommendation that the customer invest \$300,000 in a variable annuity was unsuitable because, among other things, it concentrated the customer's savings and investment funds in an investment product subject to market risk and limited liquidity on the eve of her retirement. ([FINRA Case #2008015364901](#))

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

Intermountain Financial Services, Inc.
(CRD #15386)
Heber City, Utah
(July 20, 2011)
FINRA Case #2008011579401

**Firms Cancelled for Failure to Pay
Outstanding Fees Pursuant to FINRA
Rule 9553**

Harrison Douglas, Inc. (CRD #16515)
Aurora, Colorado
(July 18, 2011)

MAM Securities LLC (CRD #124620)
Sherman Oaks, California
(July 28, 2011)

MCL Financial Group, Inc. (CRD #41180)
Santa Ana, California
(July 18, 2011)

Money Market 1 Institutional Investment
Dealer (CRD #39153)
San Francisco, California
(July 8, 2011)

Resourcive Capital, LLC (CRD #145504)
Poway, California
(July 8, 2011)

Steven L. Falk & Associates (CRD #14297)
Las Vegas, Nevada
(July 18, 2011)

**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.)

EZ Stocks, Inc. (CRD #103866)
Brookfield, Wisconsin
(July 7, 2011 – August 8, 2011)

**Firm Suspended for Failure 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.)

MCL Financial Group, Inc. (CRD #41180)
Santa Ana, California
(July 8, 2011)
FINRA Arbitration Case #10-04294

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

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

Michael Glenn Baker (CRD #2215803)
Manchester, Missouri
(July 18, 2011)
FINRA Case #2009018224901

Alexandru Aureliu Calin (CRD #1263189)
Los Angeles, California
(July 29, 2011)
FINRA Case #2010023589001

Joseph Chan (CRD #5364607)

Miami, Florida
(July 11, 2011)
FINRA Case #2011026237701

Rebekkah Warburton Ferrell (CRD #5447027)

Roanoke, Virginia
(July 28, 2011)
FINRA Case #2010023472501

Lawrence Wayne Foster (CRD #2734837)

Henderson, Nevada
(July 28, 2011)
FINRA Case #2010021445101

Gabriel R. Fuller (CRD #5207638)

Frisco, Texas
(July 18, 2011)
FINRA Case #2010025091101

Marqui Maurice Ashanti Garrett (CRD #4551343)

Baltimore, Maryland
(July 5, 2011)
FINRA Case #2011026093601

Jacquelyn R. Godbold (CRD #5770580)

Port Jefferson Station, New York
(July 5, 2011)
FINRA Case #2010023153101

Mary Kathleen Goodall (CRD #4456106)

San Antonio, Texas
(July 25, 2011)
FINRA Case #2010022907701

Anderson Scott Hall (CRD #2535117)

Jacksonville, Florida
(July 5, 2011)
FINRA Case #2011026099301

Arthur Leroy Heffelfinger (CRD #2168013)

East Helena, Montana
(July 25, 2011)
FINRA Case #2009019862701

Michael Patrick Kay (CRD #5096906)

Brooklyn, New York
(July 5, 2011)
FINRA Case #2010023948401

James Ryan Lanier (CRD #4702771)

Tallahassee, Florida
(July 14, 2011)
FINRA Case #2010022652201

Cesar Mendivil (CRD #5104008)

Dallas, Texas
(July 29, 2011)
FINRA Case #2010025344301

Glynn Davis Ryan Jr. (CRD #2516469)

Sierra Vista, Arizona
(July 8, 2011)
FINRA Case #2009020925101

Raymond Alberto Santos (CRD #4264131)

Hollywood, Florida
(July 5, 2011)
FINRA Case #2010023131701

Quynh Thi Tran (CRD #3105373)

King of Prussia, Pennsylvania
(July 25, 2011)
FINRA Case #2009020620601

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

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

James Gabor Doering (CRD #2490669)

Lenexa, Kansas
(July 20, 2011)
FINRA Case #2009018661401

Ajay R. Joshi (CRD #2152150)

Winnetka, Illinois
(April 4, 1997 – July 22, 2011)

Michael Keith Reynolds (CRD #3080149)

Peekskill, New York
(July 21, 2011)
FINRA Case #2009019001901

Kent Duane Sweat (CRD #1157627)

Heber City, Utah
(July 20, 2011)
FINRA Case #2008011579401

Individuals Suspended for Failure to Provide Information or Keep Information Current Pursuant to FINRA Rule 9552(d)

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

Brian Douglas Bray (CRD #1043861)

Tucson, Arizona
(July 18, 2011)
FINRA Case #2011026423901

John Jay Clarke (CRD #4210170)

Wayne, New Jersey
(July 25, 2011)
FINRA Case #2011026964401

Joseph Louis Curtis (CRD #4388640)

Stockton, California
(July 22, 2011)
FINRA Case #2011026822701

Ronald Edward Davis (CRD #1000331)

Scottsdale, Arizona
(July 5, 2011)
FINRA Case #2011026484001

Francisco Alberto Diaz (CRD #2665862)

Miami, Florida
(July 22, 2011)
FINRA Case #2010022909701

Richard Charles Fredericks (CRD #807275)

Syosset, New York
(July 5, 2011)
FINRA Case
#2010021263401/2009018951601

Irene Machung (CRD #5081096)

Masbeth, New York
(July 22, 2011)
FINRA Case #2010025218501

Joel Christopher O'Polka (CRD #5744850)

Cedar Rapids, Iowa
(July 22, 2011)
FINRA Case #2011026825001

Teresa R. Phipps (CRD #5604330)

Yorktown, Indiana
(July 25, 2011)
FINRA Case #2011026633301

Gregory B. Walker (CRD #4377793)

Fort Wayne, Indiana
(July 22, 2011)
FINRA Case #2011027179001

Keath Allen Ward (CRD #2785440)

Lake St. Louis, Missouri
(July 25, 2011)
FINRA Case #2010025270801

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

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

Carolyn Jane Haik (CRD #2537050)
Honolulu, Hawaii
(July 8, 2011)
FINRA Arbitration Case #10-05295

Jeffrey Scott Hollingsworth (CRD #1496508)
Bonney Lake, Washington
(July 8, 2011)
FINRA Arbitration Case #10-00688

Wesley Glyn Long (CRD #2833960)
Fort Worth, Texas
(July 8, 2010 – July 25, 2011)
FINRA Arbitration Case #09-02732

Nadim Marwan Mourad (CRD #5085230)
Dearborn Heights, Michigan
(July 8, 2011)
FINRA Arbitration Case #10-03011

David Scott Restivo (CRD #2806816)
Manalapan, New Jersey
(July 8, 2011)
FINRA Arbitration Case #09-05936

Timothy Burke Ruggiero (CRD #2119642)
Plantation, Florida
(November 11, 2010 – July 7, 2011)
FINRA Arbitration Case #08-00632

Jeffrey Scott Spicer (CRD #2511031)
Canton, Ohio
(July 8, 2011)
FINRA Arbitration Case #10-01124

FINRA Suspends William Bailey, Former NEXT Financial Broker, for Two Years for Improper Trading in Customer Accounts and Other Violations

The Financial Industry Regulatory Authority (FINRA) announced that it has suspended William Bailey, a former NEXT Financial Group, Inc. broker of Mesa, Arizona, from the securities industry for two years for unsuitable and excessive trading of mutual funds and variable annuities. Bailey also engaged in discretionary trading without receiving prior written approval from his customers.

FINRA found that between January 2006 and December 2007, Bailey recommended 484 short-term mutual fund switch transactions in seven customer accounts. In each of the accounts, Bailey, on his customers' behalf, repeatedly sold mutual funds less than one year after purchasing them, and purchased new mutual funds with the proceeds. With Bailey's frequent switches, on average, his customers held their mutual funds for only 60 days. The seven customers, who ranged in age from 66 to 93 and were all unsophisticated investors, incurred over \$147,000 in sales charges and trading fees. Bailey received over \$120,000 in commissions from these sales. To facilitate his mutual fund trading scheme, Bailey frequently traded in his customers' accounts without first obtaining their permission and improperly completed customer account forms to make it appear the customers approved of the trading.

FINRA also found that Bailey convinced three customers to switch their variable annuities for new ones after holding them for a short period of time. These exchanges were unsuitable based on the customers financial objectives and needs, and did not improve the customers' financial situations.

Brad Bennett, FINRA Executive Vice President and Chief of Enforcement, said, "Brokers who engage in excessive trading will be held accountable. In this case, Mr. Bailey rapidly switched his elderly and unsophisticated customers in and out of mutual funds with high costs, providing a benefit to Bailey instead of to his customers."

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

The suspension is in effect from August 1, 2011, through July 31, 2013.

FINRA Fines SunTrust Robinson Humphrey, SunTrust Investment Services a Total of \$5 Million for Auction Rate Securities Violations

The Financial Industry Regulatory Authority (FINRA) announced that it has fined SunTrust Robinson Humphrey, Inc. (SunTrust RH) and SunTrust Investment Services, Inc. (SunTrust IS) for violations related to the sale of auction rate securities (ARS). SunTrust RH, which underwrote the ARS, was fined \$4.6 million for failing to adequately disclose the increased risk that auctions could fail, sharing material non-public information, using sales material that did not adequately disclose the risks associated with ARS, and having inadequate supervisory procedures and training concerning the sales and marketing of ARS. SunTrust IS was fined \$400,000 for having deficient ARS sales material, procedures and training.

FINRA found that beginning in late summer 2007, SunTrust RH became aware of stresses in the ARS market that raised the risk that auctions might fail. At the same time, SunTrust RH was told by its parent, SunTrust Bank, to reduce its use of the bank's capital and began to examine whether it had the financial capability in the event of a major market disruption to support all ARS in which it acted as the sole or lead broker-dealer. As these stresses increased, the firm failed to adequately disclose the increased risk to its sales representatives while encouraging them to sell SunTrust RH-led ARS issues in order to reduce the firm's inventory. As a result, certain SunTrust RH sales representatives continued to sell these ARS as safe and liquid. In February 2008, SunTrust RH stopped supporting ARS auctions, knowing that those auctions would fail and the ARS would become illiquid.

Additionally, FINRA found that on Feb. 13, 2008, SunTrust RH shared material non-public information regarding the potential refinancing of certain ARS issues with SunTrust Bank, which was contemplating investing in ARS. This information was material because SunTrust Bank was assured that if the auction market froze, it would likely be able to dispose of the illiquid ARS on the date the ARS was refinanced.

In addition, both SunTrust RH and SunTrust IS used advertising and marketing materials that were not fair and balanced, and did not provide a sound basis for evaluating all the facts about purchasing ARS. Specifically, the materials did not contain adequate disclosure of all the risks of ARS, including adequately disclosing the risk that ARS auctions could fail, rendering the investments illiquid for substantial periods of time. Both firms failed to maintain adequate supervisory procedures and training concerning their sales and marketing of ARS.

Brad Bennett, FINRA Executive Vice President and Chief of Enforcement, said, "SunTrust Robinson Humphrey and SunTrust Investment Services withheld information about the ARS market which prevented their sales representatives from making proper recommendations and their customers from making informed decisions about ARS. Because of that, the customers were left holding illiquid securities when the auctions failed."

This action concludes the agreements in principle with FINRA that were previously announced in Sept. 2008 and withdrawn in May 2009. SunTrust RH and SunTrust IS voluntarily repurchased approximately \$381 million and \$262 million of ARS, respectively, from their customers after FINRA began its investigation. In addition, as part of the settlements, the firms will participate in a special FINRA-administered arbitration program for eligible investors to resolve investor claims for consequential damages.

In concluding these settlements, the firms neither admitted nor denied the charges, but consented to the entry of FINRA's findings.