

# Disciplinary and Other FINRA Actions

## Firms Fined, Individuals Sanctioned

**Cantone Research Inc. (CRD® #26314, Tinton Falls, New Jersey) and Christine L. Cantone (CRD #2687618, Registered Principal, Thompson, Pennsylvania)** submitted an Offer of Settlement in which the firm was censured, fined \$25,000, \$10,000 of which was jointly and severally with Christine Cantone, and ordered to pay a total amount of \$200,000 in partial restitution to customers, jointly and severally with Christine Cantone. Christine Cantone was suspended from association with any FINRA member in any principal capacity for three months. Without admitting or denying the allegations, the firm and Christine Cantone consented to the described sanctions and to the entry of findings that Christine Cantone, as the firm's vice president and chief compliance officer (CCO), failed to reasonably supervise a registered representative who was able to continue engaging in a scheme through which he sold fictitious investments to firm customers and misappropriated more than \$1.6 million of their funds. Throughout the time of the registered representative's association with the firm, Christine Cantone was aware of certain "red flags" that should have alerted her to the misconduct but failed to reasonably follow up on those indications of possible misconduct. The findings stated that Christine Cantone was responsible for enforcing the firm's procedures regarding the monitoring and review of employee transactions in outside accounts, and for reviewing incoming and outgoing paper and electronic correspondence for the firm's registered representatives. The findings also stated that upon the registered representative's association with the firm, he disclosed an account at another member firm. Christine Cantone asked him to transfer the account to the firm and he objected, citing several reasons, including that he needed to pay certain bills from the account. Christine Cantone acquiesced and permitted the registered representative to retain his account at the other member firm. The findings also included that Christine Cantone regularly reviewed statements from the account, which alerted her to unusually large deposits in the account. Concerned that the registered representative might be engaging in outside business activities or private securities transactions, Christine Cantone questioned him about the origin of the funds but accepted the registered representative's explanation that the deposits were related to real estate sales or to his relative's supposed antique business, and did not request supporting documentation or make any other efforts to verify those representations.

## Reported for April 2012

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).

FINRA found that even when presented with direct evidence of the registered representative's deposit of customer funds into the account, Christine Cantone continued to rely on his unverified representations. As a result of Christine Cantone's failure to supervise the representative, he was able to continue his misappropriation scheme unabated while registered at the firm. FINRA also found that although the firm had general procedures requiring the disclosure of outside brokerage accounts, the provision of duplicate statements for those accounts and the questioning of registered representatives about suspect transactions in those accounts, the written supervisory procedures (WSPs) lacked specific requirements, and the firm otherwise failed to provide for reasonable follow-up or review of such suspect transactions, such as requesting documentation on questionable transactions, comparing deposit activity in the outside accounts to withdrawal activity in customer accounts, or speaking with customers. As a result, the firm failed to establish and maintain a supervisory system and establish, maintain and enforce WSPs reasonably designed to achieve compliance with applicable securities laws and regulations with regard to monitoring the activity of its registered representatives in outside brokerage accounts.

Christine Cantone's suspension is in effect from March 19, 2012, through June 18, 2012. ([FINRA Case #2009020383002](#))

**Headwaters BD, LLC (CRD #117042, Denver, Colorado), Paul Edward Janson (CRD #4992234, Registered Principal, Avon, Connecticut), Roberta Ann Laraway (CRD #4845302, Registered Principal, Lone Tree, Colorado) and Philip Williams Seefried Jr. (CRD #1747086, Registered Principal, Denver Colorado)** submitted an Offer of Settlement in which the firm was censured and fined \$60,000, of which \$40,000 was jointly and severally with Janson, Laraway and Seefried. Janson was also suspended from association with any FINRA member in a General Securities Principal (Series 24) capacity for one year. Laraway was also suspended from association with any FINRA member in an Operations Professional (Series 99) capacity for one year and Seefried was suspended from association with any FINRA member in any General Securities Principal (Series 24) capacity for one month.

Without admitting or denying the allegations, the firm, Janson, Laraway and Seefried consented to the described sanctions and to the entry of findings that the firm, acting through Laraway and Seefried, created false and misleading annual chief executive officer (CEO) certifications and that the firm, acting through Laraway and Janson, created false and misleading 3013 reports in response to FINRA's request for the documents during a routine examination. The findings stated that the firm provided FINRA with two annual CEO certifications during the examination instead of the required four, but Laraway later emailed two CEO certifications to FINRA, which were backdated and had been provided to FINRA to cause FINRA staff to conclude that the firm was in compliance with the annual certification requirement. The findings also stated that the firm was unable to evidence that it conducted certain branch office inspections during the examination but later, Laraway emailed FINRA inspection reports that were prepared after the fact and backdated.

The findings also included that the firm, by failing to create branch office inspection reports at or about the time of the inspections, failed to retain the reports for much of the three-year period for which NASD Rule 3010(c)(2) requires retention.

FINRA found that the firm failed to prepare or provide Rule 3013/3130 reports and Rule 3012 reports to the CEO or anyone else in a senior position for four years. FINRA also found that the firm did not have distinct and clearly identifiable written supervisory control procedures; did not have procedures setting forth how the firm would review and supervise for the identification of producing managers, the supervision of producing manager accounts or detail how the firm would ensure that none of its managers were producing managers; did not have procedures addressing heightened supervision of producing managers' activities; lacked procedures concerning how the firm would supervise the transmittal of customer funds and securities, customer changes of address, customer changes in investment objective, including confirmation, notification or follow-up that can be documented, or for ensuring that the firm did not engage in businesses to which the Rule 3012 provision applies; and procedures addressing CEO annual certifications in sufficient detail were deficient. In addition, FINRA determined that the firm had not conducted an anti-money laundering (AML) test since it became a member firm until FINRA filed a complaint, which was a period of almost 10 years.

Janson's suspension is in effect from March 19, 2012, through March 18, 2013. Laraway's suspension is in effect from March 19, 2012, through March 18, 2013. Seefried's suspension will be in effect from March 25, 2013, through April 24, 2013. ([FINRA Case #2010020941501](#))

**Success Trade Securities, Inc. (CRD #46027, Washington, DC) and Fuad Ahmed (CRD #2404244, Registered Principal, Washington, DC)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$100,000. Ahmed was fined \$10,000, suspended from association with any FINRA member in any principal capacity for 60 days, and must complete 16 hours of continuing education related to AML compliance in a program acceptable to FINRA. The training must be completed within six months after the issuance of this AWC. Within 30 days following completion of the training, Ahmed must provide FINRA with written proof of completion.

Without admitting or denying the findings, the firm and Ahmed consented to the described sanctions and to the entry of findings that the firm and Ahmed, the firm's president, CEO, CCO, AML compliance officer (AMLCO) and financial and operations principal (FINOP), did not implement an adequate customer identification program (CIP). The findings stated that out of a sample of accounts, the firm could not produce any customer information, and in fact, did not have an account record at all (such as a new account form) for some of the accounts. The firm could also not evidence that it had verified the identity of these accounts. For the accounts that did have proper identification paperwork, some of the customer identification paperwork provided to the firm and placed in the customer files

was completely illegible. The findings also stated that there was little to no surveillance of accounts for suspicious activity. The firm did not utilize any exception reports. Ahmed obtained and manually reviewed biweekly reports from his clearing firm that included all incoming and outgoing wire activity at the firm for a two-week period, but were not conducive to detecting any patterns or to identifying exceptions. The findings also included that although Ahmed initialed the reports, there wasn't a date to evidence that the reports were reviewed in a timely manner, and there weren't any notes or other documents to indicate he had reviewed or looked into any wires. Ahmed sampled and reviewed firm accounts on a monthly basis, but did not do so based on a relevant assessment of risk. The account review did not include customer accounts and was delegated to another principal of the firm who did not understand the review he was supposed to undertake and, therefore, did not conduct any meaningful review.

FINRA found that the firm's procedures outlined red flags that required a follow-up review. These included transactions that lacked a business purpose, customers with questionable backgrounds, customers that exhibited a lack of concern for transaction costs, customers maintaining multiple accounts for no apparent reason, unexplained wire activity, wires to countries presenting a money-laundering risk, deposits followed by requests to withdraw the funds without apparent purpose, and inflows of funds beyond the customer's known resources. FINRA also found that the firm did not follow up on any of the red flags noted in its AML compliance program (AMLCP), did not maintain a list of high-risk customers, and did not monitor a sufficient amount of account activity to permit identification of patterns of unusual size, volume, geographic factors, etc. The firm and Ahmed failed to detect and follow up on these red flags indicating that a customer might be engaging in improper and/or illegal activities. In addition, FINRA determined that the firm failed to maintain evidence that an AMLCP was approved in writing by a member of firm management as required. For two years, the firm AMLCP testing was patently inadequate. The test failed to review for suspicious activity, high-risk accounts, red flags or customer account verification; indicated that several areas were not applicable when they clearly were; failed to include an independent sample to ensure that the firm was conducting adequate reviews for AML activity; failed to identify any accounts that were missing customer identification verification; and failed to indicate that the firm was not utilizing any AML exception reports even though the clearing firm made available AML-related exception reports. Moreover, FINRA found that in a year, the firm failed to conduct any independent testing of its AML program whatsoever. The firm failed to have an adequate training program for firm personnel with respect to AML issues for two years. Although a year's annual compliance meeting superficially touched on AML, it was not adequately tailored to the firm's business. Furthermore, FINRA found that the firm conducted a securities business despite the fact that it failed to maintain its required minimum net capital. The firm failed to conduct accurate net capital computations and consequently maintained deficient net capital. The inaccurate computations were primarily due to inaccurate net capital treatment of a clearing firm deposit upon termination of the clearing relationship, improper booking

of expenses and liabilities, and the firm's failure to accurately classify allowable versus non-allowable assets. The findings also stated that because of these discrepancies, the firm failed to prepare an accurate general ledger and trial balance and quarterly Financial and Operational Combined Single (FOCUS) report for the quarters associated with the net capital deficiencies. As the firm's FINOP, Ahmed was at all times responsible for ensuring that the firm complied with its net capital and books and records obligations, and therefore, caused the firm's violations. The findings also included that during a sample review, the firm failed to report relevant customer complaints and failed to accurately and timely file some customer complaints.

FINRA found that the firm implemented material changes to its business model without obtaining prior FINRA approval; the firm engaged in municipal securities trades without obtaining the appropriate approval from FINRA. FINRA also found that the firm and Ahmed failed to establish and implement an adequate supervisory system and enforce its written procedures; the firm and Ahmed failed to maintain current information regarding Uniform Applications for Securities Industry Registration or Transfer (Forms U4) and Uniform Branch Office Registration (Forms BR), failed to obtain fingerprints when required to do so, and failed to prevent non-registered individuals from acting in a registered capacity. Unlicensed individuals had day-to-day responsibilities that required the firm to take their fingerprints, yet the firm failed to do so. In addition, FINRA determined that the firm and Ahmed failed to maintain advertising material, failed to timely file advertising material with FINRA Advertising Regulation, and failed to comply with the content standards for advertising material. Moreover, FINRA found that the firm failed to establish WSPs governing variable annuity (VA) exchanges.

Ahmed's suspension is in effect from March 19, 2012, through May 17, 2012. ([FINRA Case #2009016309801](#))

## Firm and Individual Fined

**Berwyn Financial Services Corp. (CRD #35586, Berwyn, Pennsylvania) and Kevin Michael Ryan (CRD #2305227, Registered Principal, Malvern, Pennsylvania)** submitted a Letter of Acceptance, Waiver and Consent in which the firm and Ryan were censured and fined \$15,000, jointly and severally. Without admitting or denying the findings, the firm and Ryan consented to the described sanctions and to the entry of findings that the firm, acting through Ryan, permitted an unregistered person to accept unsolicited customer orders and perform other activities requiring registration with FINRA as an Assistant Representative-Order Processing. ([FINRA Case #2010024558401](#))

## Firms Fined

**Alluvion Securities, LLC (CRD #143623, Memphis, Tennessee)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it conducted a securities business by executing trades while failing to maintain its minimum net capital requirement of \$100,000, so it was net capital deficient on five days. The findings stated that due to its failure to assess the marketplace blockage charge, the firm failed to accurately prepare net capital computations for five months, resulting in it maintaining inaccurate books and records and consequently, filed inaccurate FOCUS Part IIA reports for five months and filed untimely FOCUS Part IIA reports for three months. The findings also stated that the firm failed to file the requisite notification of its net capital deficiencies as required by Securities and Exchange Commission Rule 17a-11. The findings also included that the firm redeemed the preferred shares of its stock from a trust for full value, pursuant to the preferred stock purchase agreement; the firm's FOCUS Part IIA report for that month reflects a deduction to the capital of \$750,000 for the redemption of shares but the firm failed to file the requisite notification for the deduction pursuant to SEC Rule 17a-5(a)(2)(iii).

FINRA found that the firm's deduction of capital for the redemption of shares constituted a capital withdrawal from the firm that on a net basis exceeded in the aggregate, in a 30-day period, 30 percent of its excess net capital. FINRA also found that the firm was required to provide written notice two business days prior to such a withdrawal, and had failed to provide the requisite notice as of the execution date of this AWC. In addition, FINRA determined that both the firm's chief operating officer (COO) and CCO made additional equity contributions to the firm as part of its return to net capital compliance and thereby increased their ownership percentages above 25 percent. Moreover, FINRA found that based on these representations, FINRA made numerous requests for the firm to submit an NASD Rule 1017 application for the ownership changes, but as of the execution date of the AWC, the firm had failed to do so. ([FINRA Case #2010023902801](#))

**Altnet Securities Inc. (CRD #47867, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the sanctions, the firm consented to the described sanctions and to the entry of findings that it transmitted Combined Order/Route Reports to the Order Audit Trail System (OATS™) that failed to include the special handling code and the firm failed to transmit the corresponding execution reports for some of the reports. The findings stated that the firm executed short sale orders and failed to properly mark the orders as short. ([FINRA Case #2009020961401](#))

**Banc of America Investment Services, Inc. dba 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 \$55,000. The firm has already paid

restitution to the customers involved with the transactions. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it purchased municipal securities for its own account from a customer and/or sold municipal securities for its own account to a customer at an aggregate price (including any markdown or markup) that was not fair and reasonable, taking into consideration all relevant factors, including the best judgment of the broker, dealer or municipal securities dealer as to the fair market value of the securities at the time of the transaction and of any other securities exchanged or traded in connection with the transaction, the expense involved in effecting the transaction, the fact that the broker, dealer or municipal securities dealer is entitled to a profit, and the total dollar amount of the transaction. ([FINRA Case #2009018104101](#))

**Banc of America Securities LLC (CRD #26091, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$25,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed, within 90 seconds after execution, to transmit to the FINRA/NASDAQ Trade Reporting Facility® (FNTRF) last sale reports of transactions in designated securities. ([FINRA Case #2009017038001](#))

**Banc of America Specialist, Inc. (CRD #103971, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$40,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it had a fail-to-deliver position at a registered clearing agency in a stock that was attributable to market making activities, and did not close out the fail-to-deliver positions by purchasing or borrowing securities of like kind and quantity within the time frame prescribed by SEC Rule 204(a)(3). ([FINRA Case #2009020617501](#))

**BNY Mellon Capital Markets, LLC (CRD #17454, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$17,500 and required to revise its WSPs regarding the Municipal Securities Rulemaking Board (MSRB) Short-Term Obligation Rate Transparency (SHORT) System reporting. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report information regarding the results of an interest rate reset for variable rate demand obligations (VRDOs) to the MSRB's SHORT System. The findings stated that the firm improperly reported information regarding VRDO interest rate resets to the SHORT System that it was not required to report; the firm errantly reported to the SHORT System VRDO interest rate resets that were not subject to reporting in the course of certain systems tests when the firm was converting systems. The findings also stated that the firm failed to timely submit information regarding the results of VRDO interest rate resets within the time requirements prescribed by MSRB Rule G-34. The findings also included that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable laws, regulations and MSRB rules concerning SHORT System reporting. ([FINRA Case #2010024937501](#))



**European American Equities, Inc. (CRD #45097, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it served as placement agent for a minimum-maximum contingency private placement offering of securities a company issued as set forth in a private placement memorandum (PPM) and supplements thereto. The findings stated that in connection with the offering, the firm entered into an escrow agreement with respect to the establishment of an escrow account at a trust company. As of the contingency deadline, no investors had subscribed to the offering. Thereafter, pursuant to Supplement No. 1 to the PPM, the contingency deadline was extended and certain terms of the offering changed, including changing the offering price and, consequently, reducing the number of units required to meet the contingency. The findings also included that as of the amended contingency deadline, investors subscribed to the offering, depositing a total of \$1,456,585 in the escrow account—an amount that was less than the stated minimum contingency. However, when the amended contingency deadline passed, the firm did not return the funds to the investors. FINRA found that rather, the firm belatedly issued Supplement No. 2, whereby the contingency deadline was belatedly extended, and the offering terms changed, including further reducing the offering price, increasing the minimum contingency, plus additional changes. After the conditions of the minimum contingency as reflected in Supplement No. 2 were met, the firm conducted a closing of the offering and caused funds to be disbursed from the escrow account. FINRA also found that the firm willfully violated SEC Rule 10b-9 because it failed to obtain the consent of the investors who subscribed to the offering prior to the amended contingency deadline before extending the offering deadline, and to return investor funds when the contingency deadline expired and when the firm made belated changes to the offering. In so doing, the firm caused the PPM and Supplement No. 1 to be rendered false and misleading. In addition, FINRA determined that the firm entered into an escrow agreement and caused an escrow account to be established in connection with the offering, which was amended consistent with Supplement No.1. When the amended contingency deadline passed, the firm failed to promptly return investor funds as provided for in the escrow agreement. Moreover, FINRA found that the firm failed to establish, maintain and enforce adequate WSPs to supervise the business in which it was engaged; the firm, whose primary securities business involved acting as a placement agent in private placement transactions, did not have any written procedures addressing compliance with SEC Rules 10b-9 and 15c2-4. ([FINRA Case #2009020941102](#))

**E\*Trade Capital Markets LLC (CRD #111528, Chicago, Illinois)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$40,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to transmit Reportable Order Events (ROEs) to OATS for a market participant identifier (MPID) it was required to transmit to OATS. The findings stated that a second and third firm MPID transmitted ROEs to OATS that failed to report all required order events when routing orders between MPIDs within the firm. ([FINRA Case #2008013159301](#))



**E\*Trade Capital Markets LLC (CRD #111528, Chicago, Illinois)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$45,000, required to pay \$812.13, plus interest, in restitution to customers and 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 in transactions for or with a customer, it failed to use reasonable diligence to ascertain the best inter-dealer market and failed to buy or sell in such market so that the resultant price to its customer was as favorable as possible under prevailing market conditions. The findings stated that the firm failed to submit the market on open special handling code to OATS, and in one instance also failed to submit a new order report to OATS; failed to submit OATS information for proprietary orders not related to the firm's market-making activity; failed to submit route reports; and improperly submitted execution reports to OATS, and in one instance submitted an inaccurate cancellation time. The findings also stated that the firm's supervisory system for its Dempsey Unit Trading Desk did not provide for supervision reasonably designed to achieve compliance with applicable laws, regulations and FINRA rules concerning trade reporting (reporting trades accurately and timely, and the proper use of trade modifiers). The findings also included that the firm failed to provide documentary evidence that on the trade dates reviewed, it performed the supervisory reviews for its market-making desk set forth in its WSPs concerning trading and/or quoting during a trading halt. FINRA found that the firm transmitted trade reports for odd-lot trades and failed to report the transactions with the required odd-lot modifier of .RO to the NASD®/NASDAQ Trade Reporting Facility (NNTRF). ([FINRA Case #2008013636701](#))

**Gates Capital Corporation (CRD #29582, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to submit interest rate reset information for most of its VRDOs to SHORT within the time requirements prescribed by MSRB Rule G-14. The findings stated that the firm failed to report information about such transactions by 6:30 p.m. Eastern Time on the date on which the interest rate reset occurred when such date was a Real-time Transaction Reporting System (RTRS) business day; in the instances when the interest rate reset occurred on a non-RTRS business day, the information was reported after 6:30 p.m. Eastern Time on the next RTRS business day. ([FINRA Case #2010024937301](#))

**Instinet, LLC (CRD #7897, 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 prohibit executions in short sales subject to the SEC Emergency Order pursuant to Section 12(k)(2) of the Securities Exchange Act. ([FINRA Case #2009017180301](#))

**Investors Capital Corp. (CRD #30613, Lynnfield, Massachusetts)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$22,500 and ordered to pay \$8,834.57, 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 (or bought) corporate bonds and municipal bonds to (or from) a customer and failed to sell (or buy) 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. ([FINRA Case #2008014719301](#))

**Laidlaw & Company (UK) Ltd. (CRD #119037, London, England)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$65,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to establish and implement adequate policies and procedures designed to achieve compliance with the Bank Secrecy Act. The findings stated that the firm failed to implement adequate policies and procedures designed to detect and report suspicious activity, firm registered representatives failed to complete AML training, and the firm's AML independent tests for two years were inadequate in that they consisted mainly of a summary of the AML written procedures without information regarding any testing of the procedures. The findings also stated that the firm failed to establish, implement and maintain adequate WSPs regarding retention of business-related emails its registered representatives sent from a Bloomberg terminal. The findings also included that the firm failed to file statistical and summary information regarding customer complaints it received, filed incorrect problem and/or product codes for complaints and claims it received, and failed to file information regarding settlement agreements and/or closed arbitration cases exceeding \$25,000. FINRA found that the firm created and distributed a brochure from an internal group of registered representatives and maintained a website page relating to hedge funds and alternative investments. The brochure failed to provide a sound basis for evaluating facts, did not reflect the uncertainty of the rate of return and yield of the investment offered, did not disclose risks, was not approved by a supervisor and did not contain required language regarding the Securities Investment Protection Corporation (SIPC). FINRA also found that the brochure contained misleading and exaggerated statements, including that offerings would be structured with terms and conditions that protect the investor to the greatest extent possible while allowing for significant upside profit potential, and that the internal group would exit the investment providing liquidity for investors when the brochure failed to mention any risks or illiquidity potential. The brochure also implied that the firm traced its history to the original company with the same name that opened in 1842, but the firm obtained that name through a name purchase. In addition, FINRA determined that the website incorrectly stated that the firm was not affiliated with any specific hedge funds when it provided financial support to a specific hedge fund during one year. Moreover, FINRA found that the firm failed to establish, maintain and enforce adequate written supervisory control policies and

procedures required by NASD Rule 3012(a). A firm report of a test of its written supervisory control procedures failed to summarize the results of the test, the significant identified exceptions and additional amended supervisory procedures created in response to the test. Furthermore, FINRA found that the firm's Office of Supervisory Jurisdiction (OSJ) in one state failed to maintain a blotter containing required information regarding checks that it received and forwarded. ([FINRA Case #2009016306101](#))

**McAdams Wright Ragen, Inc. (CRD #45899, Seattle, Washington)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$22,000 and required to revise its WSPs regarding order handling, best execution, anti-intimidation, trade reporting, sales transactions, other trading rules, OATS and other rules. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to properly mark sell orders as short sales on brokerage order memoranda and, as a result, failed to properly mark some sell orders as short sales and failed to report some transactions in national market system securities to the FNTRF with the correct symbol indicating that the transactions were short sales. The findings stated that the firm failed to provide written notification disclosing to its customer that transactions were executed at an average price. The findings also stated that the firm, on one occasion, when it acted as principal for its own account, failed to provide written notification disclosing to its customer the correct reported trade price and its correct capacity in transactions and that the transaction was executed at an average price. The findings also stated that the firm, in connection with non-NASDAQ securities transactions, failed to contact and obtain quotations from dealers to determine the best inter-dealer market for each subject security. 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 addressing adequate WSPs in order handling, best execution, anti-intimidation, trade reporting, sales transactions, other trading rules, OATS and other rules. FINRA found that the firm failed to provide documentary evidence that on the trade dates reviewed, it performed the supervisory reviews set forth in its WSPs concerning order handling and other trading rules. ([FINRA Case #2009016998102](#))

**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 \$35,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report information regarding transactions effected in municipal securities to the RTRS in the manner prescribed by MSRB Rule G-14 RTRS Procedures and the RTRS Users Manual; the firm failed to report the correct trade time to the RTRS in municipal securities transaction reports and failed to report information for the transactions within 15 minutes of trade time to an RTRS Portal. The findings stated that the firm failed to show the correct execution time on the memorandum of transactions in municipal securities for the firm's account that it executed with another broker-dealer. ([FINRA Case #2009018644401](#))

**National Alliance Securities Corporation (CRD #39455, Dallas, Texas)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$12,500 and required to revise its WSPs regarding the supervisory review of transactions involving municipal securities. 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 trade time to the RTRS in municipal securities transaction reports. The findings stated that the firm failed to report information regarding transactions effected in municipal securities to the RTRS in the manner prescribed by MSRB Rule G-14 RTRS Procedures and the RTRS Users Manual; the firm failed to report information about such transactions within 15 minutes of trade time to an RTRS Portal. The findings also stated that the firm failed to show the correct execution time on the trade memorandum of municipal securities transactions. 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 MSRB rules concerning the supervisory review of transactions involving municipal securities. ([FINRA Case #2010022783601](#))

**Scotttrade, Inc. (CRD #8206, St. Louis, Missouri)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$40,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report accurate trading information through the submission of electronic blue sheets in response to FINRA requests for such information. ([FINRA Case #2009018137601](#))

**Stone & Youngberg LLC (CRD #795, San Francisco, California)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$350,000 and ordered to pay \$206,054.72, without 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 charged excessive markups on collateralized mortgage obligations securities (CMOs) transactions effected for retail customers. The findings stated that the firm failed to establish and maintain a supervisory system and procedures regarding the sale of CMOs to customers to ensure that its markups for retail trades were fair and reasonable. The group supervisor never instructed the trading supervisor, who also served as the firm's CMO trader, how to assess the reasonableness of CMO markups. The findings also stated that as a result of these procedures, the firm performed CMO transactions with retail customers where the markup the firm assessed exceeded 4 percent of the current market price of the security. The amount of the CMO markups to these customers exceeding 4 percent was \$206,054.72. These markups were excessive, in that they were not fair and reasonable when taking into account the circumstances of each trade. The findings also included that the firm failed to provide appropriate guidance regarding how to assess customer suitability for inverse floaters and failed to inform its sales force of Notice to Members (NTM) 93-73 regarding inverse floaters. Because of the firm's lack of guidance, the firm permitted registered representatives to recommend the purchase of inverse floaters to retail customers who did not understand the risks involved, or whose investment

objectives were moderate. FINRA found that the firm did not develop any of its own educational materials regarding CMOs, but purchased educational brochures on CMOs an association authored. At least one of these brochures met the informational requirements of Interpretative Material-2210-8 with respect to CMOs. Although the firm provided registered representatives with access to these brochures, each registered representative had the discretion to decide if and when to offer these brochures to their retail customers. ([FINRA Case #2009017769701](#))

**StockCross Financial Services, Inc. (CRD #6670, Beverly Hills, California)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$65,000 and ordered to pay \$19,134.34, plus interest, in restitution to customers. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it purchased municipal securities for its own account from a customer and/or sold municipal securities for its own account to a customer at an aggregate price (including any markdown or markup) that was not fair and reasonable, taking into consideration all relevant factors, including the best judgment of the broker, dealer or municipal securities dealer as to the fair market value of the securities at the time of the transaction and of any other securities exchanged or traded in connection with the transaction, the expense involved in effecting the transaction, the fact that the broker, dealer or municipal securities dealer is entitled to a profit, and the total dollar amount of the transaction. The findings stated that the firm failed to execute orders fully and promptly. The findings also stated that the firm failed to use reasonable diligence to ascertain the best inter-dealer market and failed to buy or sell in such market so that the resultant price to its customer was as favorable as possible under prevailing market conditions. ([FINRA Case #2008013630401](#))

**StockCross Financial Services, Inc. (CRD #6670, Beverly Hills, California)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$22,500 and ordered to pay \$925.38, 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 transmitted reports to OATS that contained inaccurate, incomplete or improperly formatted data; in some reports, the firm failed to submit a Route or Combined Route/Order Report to OATS, in other instances the firm incorrectly filed an Execution Report instead of a Route Report, and in two instances, the firm double-reported an ROE. The findings stated that the firm failed, when it acted as principal for its own account, to provide written notification disclosing to its customer that it was a market maker in each such security; failed, when it acted in a riskless principal capacity, to provide written notification disclosing to its customer that the commission charged was a commission equivalent; failed to provide written notification disclosing to its customer its correct capacity in the transaction; failed when it acted as principal for its own account, to provide written notification disclosing to its customer the correct reported trade price; and failed, on one occasion, to provide written notification disclosing to its customer that the transaction was executed at an average price. The findings also stated that the firm failed to execute orders fully and promptly, and in some instances failed to use reasonable

diligence to ascertain the best market, and failed to buy or sell in such market so that the resultant price to its customer was as favorable as possible under prevailing market conditions. ([FINRA Case #2009020924701](#))

**Wells Fargo Advisors Financial Network, LLC (CRD #11025, St. Louis, Missouri)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$90,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it reported revenue on its FOCUS reports net of its payout to its financial advisors, rather than as gross revenue, having determined—based partly on the Emerging Issues Task Force 99-19—that its net-basis revenue reporting complied with generally accepted accounting principles. The findings stated that the firm had followed this accounting protocol and had alluded to it in its audited financial statements. The findings also stated that a company acquired the firm as part of the company's acquisition of a corporation, and thereafter renamed it and proceeded to evaluate the firm's business practices in relation to a separate existing member firm that the acquiring company owned. As a result of that process, the firm changed its practices to reflect and report its revenue on a gross basis. The findings also included that the firm contacted FINRA to advise that its upcoming audited annual financial statement and FOCUS report would reflect a significant change in revenues for that year. These year-end reports reflected approximately \$200 million in additional revenues and expenses for the year. FINRA found that after learning of the firm's history of reporting its revenue on a net basis, FINRA determined that the firm had underpaid its Gross Income Assessments (GIAs) by a total of \$595,301.84, which the firm has since paid in full. ([FINRA Case #2010022912101](#))

## Individuals Barred or Suspended

**Carla Norah Amieiro (CRD #2975952, Registered Representative, San Juan, Puerto Rico)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Amieiro failed to appear for on-the-record testimony in connection with a FINRA investigation. The findings stated that the record supports an inference that the failure was willful. It appears that Amieiro received notice each time that FINRA scheduled the testimony, but intentionally refused to cooperate or to provide information which imposed a substantial and unnecessary burden on FINRA in its efforts to conduct the investigation. ([FINRA Case #2009020231301](#))

**Richard Declan Bailey (CRD #4482510, Registered Representative, Scituate, Massachusetts)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for two months. The fine must be paid either immediately upon Bailey'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, Bailey consented to the described sanctions and to the entry of findings that he participated in private securities transactions without providing prior written notice to, or obtaining prior written approval from, his member firm. The findings stated that while registered with the firm, Bailey was also the president and 10-percent owner of a holding company that owned limited liabilities corporations. At Bailey's direction, the holding company commenced a private offering of securities to accredited investors seeking to raise a maximum of \$1 million in order to capitalize a new subsidiary. The findings also stated that Bailey sold approximately \$673,000 of the holding company's common stock to accredited investors on an unsolicited (referral) basis to individuals with whom the holding company had a preexisting relationship based on earlier offerings. Bailey did not receive any commissions from these sales. The findings also included that when Bailey became employed by the firm, he disclosed the fact that he was the president of the holding company and a part-owner. Bailey informed the firm that the holding company owned and operated a few businesses, but did not disclose any plans to sell securities. FINRA found that Bailey signed a Registered Representative Compliance Agreement in which he agreed to effect all securities transactions through the firm unless specifically approved in writing (if required) by a principal. Notwithstanding this agreement, Bailey failed to provide written notice to, or obtain written approval from, the firm prior to offering and selling the holding company's stock. FINRA also found that after obtaining approximately \$673,000 from customers interested in investing in the holding company, Bailey first informed the firm about the offering and its impending closing.

The suspension is in effect from March 5, 2012, through May 4, 2012. ([FINRA Case #2010024626801](#))

**George Samuel Baseluos (CRD #5298235, Registered Representative, Long Beach, California)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$25,000, suspended from association with any FINRA member in any capacity for 12 months, ordered to pay \$50,000 in restitution to a customer, and to cooperate with FINRA's Department of Enforcement in its prosecution of any other disciplinary action related to these events by, among other things, meeting with and being interviewed by the Department of Enforcement without the need of staff to resort to FINRA Rule 8210, and testifying truthfully at any related hearing that may take place. The fine and restitution must be paid either immediately upon Baseluos' 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, Baseluos consented to the described sanctions and to the entry of findings that he negligently made material misstatements and/or omitted material facts in connection with the offer and sale of private placement units in a company. The findings stated that Baseluos negligently relayed false and exaggerated information about the company's business operations, the status of its construction projects, financial condition and investment potential. Baseluos misrepresented that



an investment in the company's offering was extremely safe, convincing the customer to invest \$50,000 into the offering. The findings also stated that Baseluos described the deal to the customer as a short-term bond deal having no risk whatsoever. At the time Baseluos made these representations, the company had not generated any profits, had not repaid debts, had not even broken ground on any of its planned construction projects, and had sought to raise capital just in order to meet everyday expenses, but Baseluos failed to convey these material facts regarding the true financial condition of the company and its progress to the customer. The findings also included that Baseluos recommended the company and assured the safety of the investment based solely upon information he received from his superiors at his firm, and did not attempt to corroborate what his superiors told him about the company, thus failing to ascertain the true status of the company at the time he recommended it to the customer. FINRA found that fellow registered representatives at Baseluos' firm had visited the company's location and described it as a raw plot of land, yet Baseluos did nothing to corroborate the alleged progress that the company had made since that time. Baseluos negligently represented to the customer that the promissory notes would pay 8 percent interest in a matter of months, notwithstanding the facts that the company hadn't been able to pay previous investors and was seeking to raise capital for everyday expenses. The customer has not received any money back from his investment.

The suspension is in effect from February 21, 2012, through February 20, 2013. ([FINRA Case #2008011743302](#))

**Thomas Borbone (CRD #1713376, Registered Principal, Alpharetta, Georgia)** submitted an Offer of Settlement in which he was fined \$6,000 and suspended from association with any FINRA member in any principal capacity for 60 days. The fine must be paid either immediately upon Borbone'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, Borbone consented to the described sanctions and to the entry of findings that a member firm, acting through Borbone, failed to establish, maintain and enforce a supervisory system and written procedures reasonably designed to ensure the filing, accuracy and timely amendments of Forms U4. The findings stated that Borbone failed to establish, maintain and enforce a supervisory system and written procedures for his firm that were reasonably designed to ensure that all electronic securities-related business communications and instant messaging by firm representatives were reviewed and maintained as required by Securities Exchange Act of 1934 Rule 17a-4(b)(4) and NASD Rule 3010(d)(2). The findings also stated that Borbone failed to ensure that the firm's CCO established a bank escrow account for an offering; the offering expired without selling the minimum contingency amount. Due to an administrative error, \$3,750 that was due to an investor was sent to a third party; the error was not discovered until 18 months later. The findings also included that the firm, acting through Borbone, failed to enforce a supervisory

system and written procedures reasonably designed to ensure that proper escrow accounts were established for contingent offerings and that investors' funds were returned when offerings failed to meet their contingencies.

FINRA found that Borbone failed to timely file an annual Limited Size and Resources Exception notice for the firm one year, and failed to ensure that the CCO filed the annual notification for the firm a previous year. FINRA also found that Borbone failed to prepare an adequate NASD Rule 3012 report for one year, failed to prepare or ensure the preparation of an NASD Rule 3013 report for one year and a FINRA Rule 3130 report for another year. In addition, FINRA determined that Borbone failed to ensure that procedures were reasonably established, maintained and enforced for processing wire transmittals. Moreover, FINRA found that the firm, acting through Borbone, changed investment objectives for customer option accounts without providing written notification to the customers; Borbone instructed registered representatives to change the objectives of each of the accounts to speculation. Furthermore, FINRA found that Borbone failed to cause his member firm to conduct an independent test of its AML program for two years and failed to ensure that the firm completed an independent test of its AML program another year.

The suspension is in effect from February 21, 2012, through April 20, 2012 ([FINRA Case #2008011650601](#))

**Richard Joseph Buswell (CRD #4770105, Registered Representative, Lafayette, Louisiana) and Herbert Steven Fouke (CRD #5523938, Registered Representative, Lafayette, Louisiana)** were barred from association with any FINRA member in any capacity. The sanctions were based on findings that Buswell and Fouke made numerous misrepresentations and omissions of material fact to customers who purchased unsecured bridge notes, warrants and unsecured promissory notes issued by a company that failed to repay holders of these units, failed to exchange their warrants for common stock and filed for Chapter 11 bankruptcy protection. The findings stated that Buswell and Fouke did not inform the customers of the risks involved, made unwarranted price predictions for the common stock for which the warrants were to be exchangeable, guaranteed payment would be made at maturity of the promissory notes and stated to customers that the notes were safe because of the existence of an escrow account, leading customers to believe incorrectly that all of the funds the private placement raised would be held in escrow for redemption of the promissory notes. Because there was no commitment for financing for the private placement or later public offering, the repayment of the notes was dependent upon the financial condition of the company. The findings also stated that although available, Buswell and Fouke did not provide a PPM to customers and did not inform customers of the risk factors described in the PPM; they knew, or should have known, the representations they made were inconsistent with the PPM. The findings also included that Buswell made material misrepresentations and omissions of material fact to customers in connection with selling investments in a firm private placement by falsely representing that he would invest their funds in another private placement; when the customers learned their

investments were in the firm private placement, Buswell made unwarranted assurances of a guaranteed return, that there was no risk, that they could have access to their funds at any time, and that the investment was tantamount in safety to a certificate of deposit or investing in a money market fund.

FINRA found that Buswell misrepresented to other customers that the firm private placement was safe, guaranteed an annual return, and told them it could be liquidated within two weeks after purchase; and relying on these representations, the customers invested \$100,000 in the firm private placement. FINRA also found that Buswell and Fouke made unsuitable investment recommendations to customers without a reasonable basis considering their customers' financial condition and investment objectives. In addition, FINRA determined that Buswell's unsuitable recommendations strategy employed excessively frequent trading, use of margin and concentration of customer accounts in a small number of securities that exposed the customers to unsuitable risks considering their financial circumstances and investment objectives. Moreover, FINRA found that Buswell exercised unauthorized discretion in customer accounts without the customers' prior authorization and without his firm's acceptance of the accounts as discretionary. ([FINRA Case #2009017275301](#))

**Robert Thomas Ciaccio Jr. (CRD #3039424, Registered Principal, Hicksville, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 15 business days. Without admitting or denying the findings, Ciaccio consented to the described sanctions and to the entry of findings that he effected unauthorized transactions in a customer's account at his member firm without the customer's knowledge, authorization or consent.

The suspension was in effect from March 5, 2012, through March 23, 2012. ([FINRA Case #2009019647801](#))

**Frank Joseph Cilento (CRD #1485262, Registered Representative, Staten Island, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000, ordered to disgorge \$5,100 compensation related to the court appointed Chapter 7 trustee in the matter involving an entity's debtors, and suspended from association with any FINRA member in any capacity for four months. Without admitting or denying the findings, Cilento consented to the described sanctions and to the entry of findings that he invested \$20,000 of his own money with some entities through an individual associated with the entities who was his client. The findings stated that Cilento and another broker jointly borrowed \$236,000 from some customers of his member firm to make an additional investment in the entities. Shortly after the entities' transaction scheme collapsed, Cilento and the other broker fully repaid the customers. Cilento's firm's procedures expressly prohibited borrowing money from clients. The findings also stated that Cilento referred several individuals, including some of his firm's customers, to the entities. In return for arranging these transactions, Cilento received a total of \$5,100 in compensation.

The findings also included that Cilento neither provided his firm with written notice of his investments and his referrals, nor received from his firm written authorization to engage in these transactions.

The suspension is in effect from March 5, 2012, through July 4, 2012. ([FINRA Case #2009016911204](#))

**Richard James Coleman (CRD #2720422, Registered Representative, Mount Sinai, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$15,000 and suspended from association with any FINRA member in any capacity for three months. Without admitting or denying the findings, Coleman consented to the described sanctions and to the entry of findings that he engaged in a pattern of trading activity in a customer's account that was excessive in light of the customer's objectives, financial situation and needs. The findings stated that based on Coleman's recommendations, the customer invested approximately \$295,000 in his account at Coleman's member firm. Coleman did not have a reasonable basis for believing that the recommendations he made for the customer were suitable, based on the facts the customer disclosed as to his investment objectives and financial needs. The findings also stated that Coleman's trading in the account resulted in a cost-to-equity ratio for the period of 89.24 percent and a turnover rate of 29.20.

The suspension is in effect from March 5, 2012, through June 4, 2012. ([FINRA Case #2011026458701](#))

**Vincenzo Gabriele Covino (CRD #2998267, Registered Principal, Boise, Idaho)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 30 business days. The fine must be paid either immediately upon Covino'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, Covino consented to the described sanctions and to the entry of findings that he borrowed money from a firm customer by purchasing a home from the customer and having the customer finance the purchase. The financing arrangement was memorialized in a promissory note for approximately \$697,779 and was secured by a lien on the property. The findings stated that Covino paid approximately \$360,500 on the note before he became unable to make further payments due to his financial circumstances, and surrendered the property to the customer to satisfy the outstanding debt. The findings also stated that Covino's firm did not allow its registered representatives to borrow money from customers under any circumstances.

The suspension was in effect from February 21, 2012, through April 2, 2012. ([FINRA Case #2009020793901](#))

**Eugene Dennis Crowley (CRD #4169007, Registered Representative, Alexandria, 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, Crowley consented to the described sanction and to the entry of findings that while taking the Series 66 qualification examination, he retained in his possession, and used, unauthorized written notes relating to the subject matter of the examination. ([FINRA Case #2011030556001](#))

**Brian Ray Eastridge (CRD #3178922, Registered Representative, Sedgwick, Kansas)** was fined \$127,500 and suspended from association with any FINRA member in any capacity for 18 months. The fine shall be payable if and when Eastridge reenters the securities industry. The sanctions were based on findings that Eastridge engaged in private securities transactions without providing notice to his member firm. The findings stated that Eastridge sold convertible bonds to his firm's customers by soliciting the customers to invest in an entity's bond, communicated with a company as an agent of the company and with the bond issuer on the customers' behalf, distributed offering documents to the customers, and assisted them in transferring their money to the issuer. Eastridge neither sought nor obtained his firm's permission to sell the bond offering entity's products. The entity's convertible bonds were not on Eastridge's firm's list of approved securities, the firm did not supervise the transactions, and the transactions were not recorded on the firm's book and records. The findings also stated that according to the issuer's offering documents, its bond offerings were exempt from the registration pursuant to Rule 506 of Regulation D so that the securities were exempt from Section 5 of the Securities Act of 1933 registration requirements only if the bonds were sold to accredited investors and not through general solicitations. Eastridge sold the convertible bonds to his firm's customers and his former acquaintance, who were not accredited investors. The findings also included that Eastridge negligently misled certain firm customers by providing them with the issuer's material that he failed to recognize included the false representation that an investment in the convertible bonds was guaranteed to yield 25 percent interest on an annual basis, as well as confer a 10 percent upfront bonus. Eastridge was negligent in telling certain customers they did not have to be an accredited or sophisticated investor to invest in the entity, even though the issuer's investment application indicated that the investment was suitable only for accredited and/or sophisticated investors.

FINRA found that Eastridge sent emails advertising upcoming free dinner retirement workshops, and neither sought nor obtained approval from a registered firm principal for the emails he sent advertising the workshops. Among the topics Eastridge advertised he would discuss at the workshops was how investors could be guaranteed to earn either 10 percent or 25 percent annual interest through certain alternative investments. Eastridge's representations in his emails that the securities guaranteed either 10 percent or 25 percent returns on investment were false, exaggerated, unwarranted and misleading. FINRA also found that Eastridge did not have a reasonable basis to believe that the issuer's convertible

bonds were suitable for any investor, including his customers. Eastridge failed to conduct a suitability analysis; did not conduct any independent research of the entity's investments, and relied only on information he received from either the issuer or the company for which he served as an agent. Eastridge did not have a good understanding of how the issuer intended to make good on its guarantee that it would pay investors 25 percent interest on an annual basis.

The suspension is in effect from March 5, 2012, through September 4, 2013. ([FINRA Case #2009020675401](#))

**Philip Eckstein (CRD #3080212, Registered Representative, Wilton, Connecticut)** 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, Eckstein consented to the described sanction and to the entry of findings that a customer sought to purchase a fixed annuity through Eckstein for \$10,000. The findings stated that instead of using the money to purchase an annuity, Eckstein converted the \$10,000 to his own use and provided the customer with false explanations to cover his theft of the \$10,000. The findings also stated that in connection with a state investigation of the same events, Eckstein's member firm reimbursed the customer for the annuity never purchased, plus interest, and Eckstein was ordered to repay the customer for a \$7,700 loan she made to him, as well her legal fees. The findings also included that Eckstein failed to appear for testimony requested by FINRA. ([FINRA Case #2009019288301](#))

**Eric Anthony Foster (CRD #3267556, Registered Representative, Suffern, New York)** submitted an Offer of Settlement in which he was fined \$10,000, suspended from association with any FINRA member in any capacity for three months and required to pay \$2,471, plus interest, in restitution to a customer's estate. Without admitting or denying the allegations, Foster consented to the described sanctions and to the entry of findings that he effected transactions in the account of a deceased customer at his member firm, without the authorization of the customer or the estate representative of the deceased customer.

The suspension is in effect from March 5, 2012, through June 4, 2012. ([FINRA Case #2008015382001](#))

**Jimmy Wayne Freeman Jr. (CRD #3240344, Registered Representative, Corpus Christi, Texas)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000, suspended from association with any FINRA member in any capacity for 12 months and ordered to pay \$508,185.88 in restitution, \$453,185.88 of which remains outstanding, as ordered in his separate agreement with a state regulatory agency. The fine must be paid either immediately upon Freeman'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. The restitution must be paid in full within 90 days of issuance of this AWC to the permanent receiver, and Freeman must show

proof before reassociating with a 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, Freeman consented to the described sanctions and to the entry of findings that he entered into a written contract with a company to sell note agreements, without providing notice to, nor receiving permission from, his firm to engage in any activities related to a company. The findings stated that Freeman lacked the proper license, a Series 7, to do so. The findings also stated that Freeman represented that the company's products were safe and the notes guaranteed a high return within five years, but he lacked any factual basis to make these claims; he did not have any experience with the company's products and failed to conduct adequate due diligence. The findings also included that while recommending the company's investments to his customers, Freeman provided them with the company's sales literature, which contained several unwarranted and misleading statements, failed to disclose any risks involved in the investments, and guaranteed the products would succeed. The statements helped form the basis of Freeman's recommendations to his customers, even though he did not verify these claims prior to recommending and selling the note agreements to his customers. Although Freeman did not write these statements or assist in the drafting of the sales literature, he should have known that the statements were misleading.

The suspension is in effect from March 5, 2012, through March 4, 2013. ([FINRA Case #2010023612304](#))

**Jeffrey James Frye (CRD #1916522, Registered Representative, Lawrence, Kansas)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Frye falsified customer account records by changing a customer's address and phone number in the firm's books and records so that his residential address and phone number were substituted for the customer's; Frye did so without the customer's permission or authority. The findings stated that Frye attempted to convert customer funds by diverting funds from a whole life insurance policy to himself without the customer's authorization by means of the falsified customer address and phone number. The findings also stated that Frye failed to provide requested information or to appear for FINRA on-the-record testimony, materially impeding a FINRA investigation. ([FINRA Case #2010024813601](#))

**Janet Lynne Gentry (CRD #2261667, Registered Principal, Bluff Dale, Texas)** submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any FINRA member in any principal capacity for two months. Without admitting or denying the findings, Gentry consented to the described sanctions and to the entry of findings that, as her member firm's AML compliance officer, CCO and designated principal responsible for firm supervisory controls, she failed to establish and implement policies and procedures reasonably designed to detect and cause the reporting of suspicious activity occurring at a branch of her member firm, and failed to conduct due diligence and obtain the required certification for a foreign correspondent account opened



at the branch. The findings stated that the suspicious activity involved the deposit and immediate liquidation of large blocks of penny stocks, often in the accounts of more than one customer, by customers with questionable backgrounds, and often when the securities were subject to publicity campaigns that included suspicious claims; the suspicious activity involved the deposit and sale of approximately 7.3 billion shares in accounts some customers held for proceeds of more than \$2.6 million. The findings also stated that the firm's written AML procedures required Gentry to detect foreign correspondent accounts by requesting corporate documents and a certificate of filing for all correspondent accounts and to perform mandatory enhanced due diligence of any foreign accounts detected, including evaluating the effectiveness of its AML program at detecting and preventing money laundering, conducting enhanced monitoring of account activity, obtaining information about sources and beneficial ownership of funds, and identifying persons with trading authority. The findings also included that Gentry failed to detect the existence of a foreign correspondent account at a new branch and failed to conduct any due diligence, including an assessment of AML risks, and failed to update the account documentation for the account or obtain the required certification within 30 days after the account was opened.

FINRA found that when Gentry joined the firm, she adopted the WSPs from the predecessor firm and failed to update the WSPs when the firm opened a new branch; the WSPs failed to adequately address penny stock transactions or sales of unregistered securities and failed to address, or adequately address, other firm business activities. FINRA also found that when the firm brought on a new line of business that involved thinly traded, unregistered securities in certificate form, was overseen by a producing branch manager and represented approximately 24 percent of the firm's profits one year, Gentry failed to take steps to test and verify that the firm's procedures were reasonably designed to detect and prevent manipulative and fraudulent trading activity. In addition, FINRA determined that Rule 3012 verification reports Gentry prepared failed to address the business at the new branch; and although they stated she had conducted testing on insider trading, outside business activities and outside securities accounts, she was unable to provide documentation of such testing. Moreover, FINRA found that Gentry failed to ensure that the firm's system of supervisory controls was reasonably designed to review and supervise the customer account activity conducted by producing branch managers at the firm and reasonably designed to provide heightened supervision over the activities of the producing branch manager at the new branch.

The suspension is in effect from March 5, 2012, through May 4, 2012. ([FINRA Case #2008016061801](#))

**Chad Eugene Hanson (CRD #4351092, Registered Representative, Eagle, Idaho)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 30 days. Without admitting or denying the findings, Hanson consented to the described sanctions and to the entry

of findings that he improperly distributed a study guide, answer key and exam to a state long-term care (LTC) insurance continuing education (CE) examination to registered representatives at his member firm and to others not associated with the firm. The findings stated that certain states began requiring individuals to successfully complete a LTC CE course before selling LTC insurance products to retail customers. The findings also stated that Hanson instructed the recipients to fill in the answer sheet just like the answer key and fax it in.

The suspension was in effect from February 21, 2012, through March 21, 2012. ([FINRA Case #2011029347601](#))

**Steven Vincent Hazard (CRD #2648419, Registered Representative, Sequim, Washington)** was barred from association with any FINRA member in any capacity and ordered to pay \$47,500, plus interest, in restitution to a customer. The sanctions were based on findings that Hazard borrowed \$67,500 total from customers contrary to his member firm's written policy, repaid \$20,000 but has not repaid the remaining \$47,500. The findings stated that Hazard borrowed \$100,000 from another firm customer when he was the customer's financial advisor. The loan from this customer was evidenced by a promissory note, which required Hazard to pay \$112,000 in one year. Hazard did not pay the customer when the note fell due, and entered into a promissory note extension. Hazard defaulted in payment on the promissory note extension, and the customer obtained a court judgment against Hazard in the amount of \$126,361.48, which included prejudgment interest and attorney's fees. The findings also included that Hazard has not made any payments on the judgment. Hazard's firm did not approve any of the loans transactions. FINRA found that Hazard failed to respond completely to FINRA requests for information and documents. ([FINRA Case #2009018165601](#))

**William Edward Herlihy (CRD #4005879, Registered Principal, Deltona, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$50,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Herlihy'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, Herlihy consented to the described sanctions and to the entry of findings that he effected the sales of stock that was not registered with the SEC, and no exemption from registration applied. The findings stated that the transactions generated proceeds of approximately \$386,000 for the customers. The findings also stated that despite the questionable circumstances surrounding the transactions, Herlihy failed to conduct a "searching inquiry" to ensure that the sales did not violate Section 5 of the Securities Act of 1933. The findings also included that Herlihy communicated with several of his customers through his personal email account in contravention of his member firm's written procedures, thereby interfering with the firm's supervision and retention of electronic communications and contravened its written procedures.

The suspension is in effect from March 5, 2012, through September 4, 2012. ([FINRA Case #2009019534201](#))

**Ronald Adam Hollinger (CRD #2724166, Registered Representative, Greenwood, Indiana)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 10 business days. The fine must be paid either immediately upon Hollinger'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, Hollinger consented to the described sanctions and to the entry of findings that he effected stock sale transactions in customer accounts on a discretionary basis without prior written authorization from any of the customers and without his member firm's permission to exercise discretion. The findings stated that the accounts were not designated as discretionary accounts.

The suspension was in effect from March 5, 2012, through March 16, 2012. ([FINRA Case #2009020421901](#))

**Mikal Keahey Johnson (CRD #4988857, Registered Representative, Richardson, Texas)** submitted an Offer of Settlement in which he was suspended from association with any FINRA member in any capacity for 18 months. Without admitting or denying the allegations, Johnson consented to the described sanction and to the entry of findings that he exercised discretion in the securities accounts of his member firm customers without their written authorization to effect discretionary trades in their firm accounts, or his firm's prior written acceptance of the accounts as discretionary. The findings stated that Johnson had a profit-sharing arrangement with some firm customers pursuant to which he would take 25 percent of the profits they earned in their respective accounts without written permission from the customers or from his firm for this sharing arrangement. The findings also stated that Johnson failed to timely respond to FINRA requests for information.

The suspension is in effect from March 5, 2012, through September 4, 2013. ([FINRA Case #2009020417002](#))

**David Austin Kembel (CRD #4816228, Registered Representative, Roanoke, Virginia)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000, suspended from association with any FINRA member in any capacity for seven months, and ordered to pay \$30,000, plus interest, in restitution to customers. The fine and restitution ordered must be paid either immediately upon Kembel'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, Kembel consented to the described sanctions and to the entry of findings that he accepted loans from individuals who were clients in the combined amount of \$75,000. The findings stated that Kembel entered into a promissory note with two of the individuals for \$30,000. Kembel used two other individuals' \$45,000 certificate of deposit

as collateral for a personal bank loan. The findings also stated that Kembel's firm's policies specifically prohibited its registered representatives from accepting loans from clients. The findings also included that Kembel falsely claimed during several branch audits that he had not borrowed money from clients.

The suspension is in effect from February 21, 2012, through September 20, 2012. ([FINRA Case #2009019244401](#))

**John Stuart Kuhn Sr. (CRD #2849186, Registered Representative, Callao, Missouri)** 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 Kuhn'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, Kuhn consented to the described sanctions and to the entry of findings that he failed to disclose material information on his Form U4.

The suspension was in effect from March 5, 2012, through April 3, 2012. ([FINRA Case #2011026455901](#))

**Joshua Martinez (CRD #4972710, Registered Representative, Rio Piedras, Puerto Rico)** 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, Martinez consented to the described sanction and to the entry of findings that he accessed a relative's account at his member firm, reviewed the financial information contained in the account and shared the information with third parties, including a lawyer representing Martinez in a legal dispute. The findings stated that Martinez did not have the relative's permission to share with third parties information from the account, and did not provide the relative with an opportunity to opt-out of Martinez' disclosure to third parties of account information. Martinez' actions failed to comply with the requirements outlined in, and were in contravention of, SEC Regulation S-P. The findings also included that Martinez failed to respond to FINRA requests for information and documents. ([FINRA Case #2010025767501](#))

**Samuel B. Marquez (CRD #5550734, Registered Principal, Tucson, Arizona)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$15,000 and suspended from association with any FINRA member in any capacity for seven months. The fine must be paid either immediately upon Marquez' 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, Marquez consented to the described sanctions and to the entry of findings that he met a prospective customer while interviewing her for a sales agent opportunity with his firm's affiliated insurance company. During the interview, the customer said she would be interested in purchasing life insurance in the future, but not at that time. After the interview, Marquez telephoned the customer and again tried to convince her to

purchase insurance policies, and the customer again declined. The findings stated that in order to meet a quota set by his firm's affiliated insurance company, Marquez created a life insurance policy in the customer's name and a renter's policy on the home the customer's relative owned using the information he had gained during the customer's job interview. The findings also stated that the firm's affiliated insurance company sent a notice about one of the policies to the customer's home, which prompted the customer's relative to call Marquez' office to inquire about the policies. To address the relative's concerns, Marquez attempted to explain his misconduct as an error, misrepresenting to the relative that he used the customer's data as an example while training new agents to complete insurance applications.

The suspension is in effect from February 21, 2012, through September 20, 2012. ([FINRA Case #2011026435301](#))

**Evert Roy McDowell (CRD #2506380, Registered Representative, Burtonsville, Maryland)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for four months. The fine must be paid either immediately upon McDowell'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, McDowell consented to the described sanctions and to the entry of findings that he willfully failed to amend his Form U4 to disclose material information.

The suspension is in effect from February 21, 2012, through June 20, 2012. ([FINRA Case #2011028750201](#))

**Robert Brian Mercer (CRD #4726517, Registered Representative, Richmond, Virginia)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Mercer'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, Mercer consented to the described sanctions and to the entry of findings that he submitted a document to process a VA investment a firm customer requested. After the VA document was submitted, Mercer's firm noted that he had miscalculated the annual expenses for the annuity, revised that entry in the form and returned it to Mercer so that he could have the customer agree to the change by placing her initials on the document. The findings stated that rather than submitting the document to the customer, Mercer placed the customer's initials on the document without her authorization and resubmitted it to the firm.

The suspension is in effect from March 5, 2012, through June 4, 2012. ([FINRA Case #2011028259801](#))

**Gabriel Mero Jr. (CRD #5681132, Registered Representative, Baldwin Park, California)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Mero failed to respond in a timely manner to FINRA's requests for information, and failed to provide additional information and documents FINRA requested. ([FINRA Case #2010024601702](#))

**Lloyd Thomas Mincy Jr. (CRD #2288940, Registered Principal, Keego Harbor, Michigan)** 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 nine months. Without admitting or denying the findings, Mincy consented to the described sanctions and to the entry of findings that he made material verbal and written misrepresentations to prospective customers regarding the features of a VA. The findings stated that Mincy misrepresented that the VA offered a guaranteed rate of return. The VA the customers purchased did have a 5 percent guaranteed death benefit option which provided that upon the death of the annuitant the payout to the beneficiaries would provide at least a 5 percent rate of return. The findings also stated that Mincy's member firm's policies and procedures required that a supervisor review and approve all correspondence prior to being mailed; Mincy did not submit letters he sent to the customers guaranteeing rates of return to his firm for approval and therefore did not receive firm approval to send the letters. The findings also included that one customer questioned her VA policy, which indicated a 5 percent rate of return as opposed to the 6 percent he had represented to her; Mincy offered to pay the customer the additional 1 percent himself if she would tell the annuity company that she accepted the policy as written, which was false because there was no guaranteed rate of return to which he could have added the 1 percent. FINRA found that Mincy assisted a customer in surrendering her VA and purchasing a different product. Prior to surrendering the VA, Mincy informed the customer that the surrender charges would be \$17,426, which was incorrect since the correct amount was \$28,323. FINRA also found that Mincy gave the customer a \$10,900 personal check to compensate her for the difference, but failed to inform his firm of the customer's complaint or that he had given her money to compensate her for the loss.

The suspension is in effect from March 5, 2012, through December 4, 2012. ([FINRA Case #2008015856301](#))

**Jeffery Dean Ogle (CRD #1107163, Registered Principal, Castle Rock, Colorado)** 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 nine months. The fine must be paid either immediately upon Ogle'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, Ogle consented to the described sanctions and to the entry of findings that he operated a registered investment advisory firm, provided financial advisory services to clients and offered securities products through a member firm with which he was registered. The

findings stated that Ogle induced some of his customers to invest a total of approximately \$460,000 in his relative's home building company. Ogle arranged for these customers to loan money to his relative and/or his business, with the understanding that the money would be used to finance home construction. The customers were initially promised interest rates of 11 percent, which were later decreased to 9 percent and again decreased to 7 percent. Ogle's relative issued promissory notes which were generally of one-year duration. However, the customers reinvested all or most of their principal and interest in the notes, while being liable for income taxes on the interest. The findings also stated that the home building business began experiencing difficulties, and later Ogle's relative declared personal bankruptcy, listing Ogle's customers as creditors. The findings also included that the promissory notes at issue here were securities. Ogle failed to notify or seek his member firms' approval prior to participating in the private securities transactions.

The suspension is in effect from March 5, 2012, through December 4, 2012. ([FINRA Case #2011027641801](#))

**Timothy Leon Pittman (CRD #2955718, Registered Principal, Chico, California)** was barred from association with any FINRA member in any capacity. In light of Pittman's financial status, no monetary sanctions have been imposed. The sanction was based on findings that Pittman failed to appear and testify at FINRA on-the-record interviews. The findings stated that Pittman admitted that he borrowed \$30,000 from his customer to pay personal expenses, without his member firm's approval. The firm's written policies and procedures strictly prohibited registered representatives from borrowing money from any of the firm's customers. The findings also stated that Pittman admitted in his response to FINRA that he was aware of his firm's policies and procedures prohibiting loans between customers and the representatives, but claimed he did not believe the policy applied because of the almost family relationship he had with the customer. The loan was evidenced by handwritten notes that Pittman signed. The evidence shows that Pittman twice made interest payments of \$250 but did not make any other payments. The findings also included that Pittman admitted that he did not tell anyone at the firm about the loan and did not receive the firm's approval to borrow money from the customer. The firm learned of the loan when the customer filed an arbitration claim, which named the firm as a respondent. ([FINRA Case #2010021627601](#))

**Hugh Kelley Radke Jr. (CRD #369931, Registered Representative, Englewood, Colorado)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Radke'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, Radke consented to the described sanctions and to the entry of findings that he engaged in outside business activities without providing prompt written notice to his member firm when he acted as marketing director of an insurance corporation and sold



insurance as a general insurance agent to retail customers. The findings stated that the firm required its registered representatives to submit a disclosure form prior to engaging in any outside business activity, describing the outside business activity and disclosing whether firm customers were involved. The findings also stated that Radke earned approximately \$20,000 as an insurance agent for sales made during his employment at his firm but did not provide prompt written notice to the firm, or complete the firm's disclosure form identifying his outside business activities, until more than a year after he had commenced employment with his firm. The findings also included that the firm prohibited its registered representatives from borrowing funds from any customer. Radke and some firm customers executed promissory notes, where the customers agreed to lend Radke's outside business entity a total of \$100,000. Radke signed the promissory notes documenting the loans and setting forth the terms of repayment.

The suspension is in effect from March 5, 2012, through June 4, 2012. ([FINRA Case #2010023819501](#))

**John Charles Reilly Jr. (CRD #725271, Registered Principal, St. Louis, Missouri)** submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Reilly'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, Reilly consented to the described sanctions and to the entry of findings that he failed to timely disclose a material fact on his Form U4. The findings stated that Reilly's failure to disclose this material fact on his Form U4 in a timely manner was not willful.

The suspension is in effect from March 5, 2012, through June 4, 2012. ([FINRA Case #2008016437801](#))

**Ryan Reaume Riley (CRD #2684692, Registered Principal, Leesburg, Virginia)** submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member in any capacity for 18 months. In light of Riley's financial status, no monetary sanctions have been imposed. Without admitting or denying the findings, Riley consented to the described sanction and to the entry of findings that he participated in private securities transactions, through his company, while associated with his member firm, without providing prior written notice to the firm. The findings stated that Riley received compensation and fees totaling approximately \$167,551.18.

The suspension is in effect from March 5, 2012, through September 4, 2013. ([FINRA Case #2010022145001](#))

**Susan Gail Sauvageau (CRD #2425378, Registered Supervisor, Fargo, North Dakota)** submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$25,000 and suspended from association with any FINRA member in any capacity for two months.

Without admitting or denying the findings, Sauvageau consented to the described sanctions and to the entry of findings that she executed mutual fund purchases for customers and designated all of the transactions as being eligible for a waiver of the front-end load based on a \$1 million right of accumulation. The findings stated that none of these purchases qualified for this waiver. The customers purchased a total of \$2,251,682.40 of mutual funds with no front-end loads when all of the transactions should have included a front-end load. As a result, Sauvageau deprived the mutual fund companies of fees to which they were otherwise entitled. The findings also stated that Sauvageau's actions caused her member firm's books and records relating to these mutual fund purchases to contain false information.

The suspension is in effect from March 5, 2012, through May 4, 2012. ([FINRA Case #2009016691402](#))

**Mark Alan Schroeder (CRD #3014840, Registered Principal, Farmington, 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, Schroeder consented to the described sanction and to the entry of findings that he converted approximately \$31,730 from his member firm's insurance affiliate for his own use and benefit. The findings stated that the member firm's insurance affiliate required that Schroeder establish a premium fund account, a bank account in his name for depositing insurance customer premium payments, and Schroeder used the account for depositing these premium payments when he received them at his insurance agency. The payments deposited into the account became the property of the insurance affiliate. No other funds should have been deposited into the account, and Schroeder had no right to withdraw funds from the account. The findings also stated that Schroeder made numerous improper withdrawals from his premium fund account in various amounts for a combined total of \$31,730. Schroeder admitted that he improperly withdrew funds from his account and used the funds to pay for business and personal expenses. The findings also included that at the time of his termination from the insurance affiliate, Schroeder repaid all but \$321 of the improperly withdrawn amount. ([FINRA Case #2010025527901](#))

**Michael Joseph Schunk (CRD #732595, Registered Principal, Bridgeport, Connecticut)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$20,000, suspended from association with any FINRA member in any principal capacity for 30 days and required to complete, within six months of the issuance of the AWC, at least 16 hours of training, acceptable to FINRA, concerning AML, supervision, WSP drafting and/or supervisory controls; and to provide FINRA with evidence of having completed such training. Without admitting or denying the findings, Schunk consented to the described sanctions and to the entry of findings that he failed to establish, maintain and enforce WSPs reasonably designed to prevent violations of the securities laws and failed to reasonably supervise the activities of his member firm's branch office. The findings stated that WSPs Schunk drafted were not reasonably designed to achieve compliance with

rules relating to, among other things, branch office supervision, email retention, principal approval of trades and new accounts, and the supervision of representatives subject to regulatory orders. The findings stated that despite the fact that the two primary registered representatives at the firm's newly opened branch had significant disciplinary histories and were the subject of stipulated agreements with a state's Department of Banking conditioning their registrations as broker-dealer agents in the state, Schunk never amended the firm's WSPs to address the supervision of the branch in general or of the registered representatives in particular. In fact, the WSPs failed to address other issues specific to the branch, including controls over office administrative and back-office functions, an inspection schedule for conducting the inspections required by NASD Rule 3010(c) (2) and steps the firm would take to ensure that the branch was adequately supervised. The findings also stated that the WSPs failed to specify the identity of the principal(s) responsible for supervision of all activities of the branch, including, but not limited to, principal approval of trades and new accounts, blotters and electronic communications. The WSPs made only brief mention of the review and retention of email, and did not provide guidance on how the firm intended to comply with rules in this area. The findings also included that Schunk was responsible for ensuring the branch and the two registered representatives with significant disciplinary histories were appropriately supervised. Schunk only visited the branch approximately 10 times, with half of those visits occurring during the first month the office was being established. After that time, the frequency of Schunk's visits to the branch dropped dramatically, including when the branch was engaged in its first private placement offering.

FINRA found that Schunk failed to establish, maintain and enforce any system of supervisory control policies and procedures for the firm that tested and verified that its supervisory procedures were reasonably designed with respect to the activities of the firm and its registered representatives and associated persons to achieve compliance with applicable securities laws and regulations, and created additional or amended supervisory procedures where testing and verification identified such a need. FINRA also found that Schunk was the firm's AMLCO and in this position, he was responsible for drafting, updating and enforcing the firm's AMLCP. The AMLCP Schunk drafted was deficient in several respects; firm senior management did not date or approve the procedures, and they did not address how the firm would investigate for suspicious activity. In addition, FINRA determined that Schunk failed to enforce the firm's AMLCP. The AMLCP required that all Section 314(a) requests the firm received from the Financial Crimes Enforcement Network (FinCEN) be reviewed. The firm, acting through Schunk, only reviewed one of the requests it received during a period of time. Moreover, FINRA found that the firm, acting through Schunk, failed to implement its CIP. The firm failed to obtain some or all of the required CIP information for customers in private placement transactions reviewed.

The suspension was in effect from March 5, 2012, through April 3, 2012. ([FINRA Case #2010020872302](#))

**Eric Breton Smith (CRD #2133043, Registered Representative, Portage, Michigan)** 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, Smith consented to the described sanction and to the entry of findings that he willfully failed to amend his Form U4 to disclose material information. The findings stated that Smith failed to appear for a FINRA on-the-record interview. ([FINRA Case #2010023696901](#))

**Thomas Kent Smith (CRD #2507492, Registered Representative, Boulder, Colorado)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 30 business days. The fine must be paid either immediately upon Smith's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Smith consented to the described sanctions and to the entry of findings that he participated in securities transactions outside the regular course and scope of his employment with his member firm by assisting a customer in selling her shares in a privately held company to firm customers. The customers purchased the shares for a combined total of approximately \$34,000. The findings stated that Smith did not receive any compensation in connection with the sales and failed to provide his firm with prior written notice of his proposed participation in the transactions.

The suspension was in effect from February 21, 2012, through April 2, 2012. ([FINRA Case #2011028320801](#))

**Leland Otto Stevens (CRD #2399514, Registered Representative, Christiansburg, Virginia)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000, suspended from association with any FINRA member in any capacity for two years and ordered to pay \$100,000 in restitution, plus \$16,900 in disgorgement. In light of Stevens' financial status, no interest on the \$116,900 in restitution and disgorgement due to his customers has been imposed. The fine must be paid either immediately upon Stevens' 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. Stevens shall submit satisfactory proof of payment of restitution or of reasonable and documented efforts undertaken to effect restitution within 120 days after acceptance of this AWC. Without admitting or denying the findings, Stevens consented to the described sanctions and to the entry of findings that he solicited and sold promissory notes issued by a company and related entities to customers who invested a total of approximately \$565,000 in the promissory notes, and lost practically all of their money. The promissory notes were marketed to Stevens' customers as safe investments with extraordinary rates of return that would be generated by investment portfolios in precious metals, foreign currency, index trading and private placements. In reality, the investors' funds were used in furtherance of a Ponzi scheme by the company's owners. The findings also stated that the promissory notes issued by the company's related entities were securities that had

not been registered with the SEC or granted an exemption from registration, and were not approved by the firm for solicitation or sale. As Stevens reasonably should have known, the company notes were securities. The purpose of the company notes was to raise capital for the company's related entities, and investors were attracted to invest in them based on the favorable rate of interest the company promised to pay. Also, as Stevens knew, the company notes were being sold to numerous individual purchasers, and the purchasers, including his customers, reasonably considered that they were making an investment when they purchased a company note. The findings also included that Stevens lacked a reasonable basis to recommend the company notes to any customers given his failure to perform a reasonable investigation concerning the investment product and the company's entities. In the absence of any independently verifiable information such as audited or unaudited financial statements, filed tax returns, proof of registration of the company notes or of an available exemption from registration, and evidence that the company's entities had sufficient collateral to secure his customers' investments as warranted in the company's security agreements, it was unreasonable for Stevens to rely on the self-serving statements by the company's owner and its promoters as a basis for recommending these investments to his customers. Stevens took inadequate steps to inquire into the investment experience or success of the entity's owners.

FINRA found that Stevens presented customers with advertising materials the company prepared that contained exaggerated and unwarranted statements and claims. FINRA also found that Stevens presented a customer with a company-prepared DVD featuring the owner in a question-and-answer style interview along with written summaries of the statements and claims the owner made during the interview. During the presentation, the owner emphasized safety, liquidity and profit, and failed to discuss the risks inherent in the investment. Stevens did not present the company's advertising brochure or DVD to a registered principal of his firm for review and approval prior to showing them to customers in connection with his sales of the company notes.

The suspension is in effect from March 19, 2012, through March 18, 2014. ([FINRA Case #2009020682401](#))

**Alan Ronald Taylor (CRD #1282948, Registered Representative, Reno, Nevada)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Taylor consented to the described sanction and to the entry of findings that he failed to respond to FINRA requests for documents and information. ([FINRA Case #2010024687601](#))

**Christopher James Thompson (CRD #2994785, Registered Principal, Tuckahoe, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 15 business days. The fine must be paid either immediately upon Thompson'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, Thompson consented to the described sanctions and to the entry of findings that he opened a checking account at his member firm's affiliated bank on a customer's behalf, submitted an application for a credit card account at the bank on the customer's behalf, obtained approval for a credit card for the customer with a credit line of \$6,000 and linked the credit card account to the customer's checking account so the customer could use the credit line as overdraft protection and obtain cash advances. The findings stated that without the customer's permission, Thompson obtained and activated a temporary automatic teller machine (ATM) card that allowed him access to the customer's checking account and credit line. The findings also stated that the customer asked Thompson to get money and give it to her, but she did not ask him to obtain or activate an ATM card to access her account. The findings also included that Thompson made several withdrawals totaling \$5,900 using the temporary ATM card from the customer's account and claimed he gave almost all of the money to the customer and intended to give the rest to the customer.

The suspension was in effect from February 21, 2012, through March 12, 2012. ([FINRA Case #2010024164801](#))

**Matthew Christopher Valentine (CRD #2819473, Registered Supervisor, Dallas, 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, Valentine consented to the described sanction and to the entry of findings that he made withdrawals totaling \$540,000 from a firm customer's securities account without the customer's authorization or knowledge. The findings stated that when the customer's accountant questioned the withdrawals, Valentine advised the customer that the funds were invested in an outside private business entity. Valentine also told the customer that he exercised discretion to effect the transfers but the scope of his written discretionary authority did not include the authority to transfer funds or securities out of a customer's securities account. The findings also stated that the customer advised Valentine that he did not wish to invest in the private entity and Valentine agreed to return the funds after he liquidated the investment. Contrary to Valentine's statements, Valentine did not invest the customer's funds. The findings also included that in a settlement executed between the customer, Valentine and Valentine's member firm, the customer received a payment of \$597,093.36, which included the sum of the unauthorized transfers, interest and firm fees. FINRA found that Valentine failed to disclose to his firm or obtain the firm's prior written approval for his affiliation with outside businesses he incorporated, owned or by whom he was employed. FINRA also found that Valentine knowingly placed false information on his firm compliance survey regarding his participation in outside business activities and outside business relationships when he responded in the negative to questions regarding his outside business activities and relationships. In addition, FINRA determined that Valentine failed to respond to FINRA requests for documents and to appear for on-the-record testimony. ([FINRA Case #2010022504701](#))

**Douglas Eugene Vannoy (CRD #2711538, Registered Representative, Kingsville, Texas)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Vannoy opened a sole proprietorship account for his personal company in a deceased customer's name. The customer appeared to have signed both the signature page of the account application and a notarized Sole Proprietor Affidavit for the account. The findings stated that Vannoy deposited approximately \$20,750 of the customer's personal funds and funds from the customer's firm accounts into the account, and caused the entire amount to be paid from that account directly to his company. Vannoy did so by means of a letter of authorization (LOA) requesting that the firm send a check for \$3,200 to his company, and by a series of checks totaling \$17,550 from the company's account checkbook made payable to Vannoy's company. The findings also stated that the customer appeared to have signed the LOA and the checks. Vannoy withdrew the funds from his company's account and deposited them into his personal checking account, without the customer's authorization before he died, or from the executrix of the customer's estate, thereby misappropriating approximately \$20,750 from the deceased customer. An account was opened at the firm for the customer's estate, and shortly thereafter, the firm began an investigation into Vannoy's conduct, and he ceased making withdrawals from his company's account. The findings also included that Vannoy submitted documentation with false information to the firm's IRA processing department to liquidate an annuity held in the customer's IRA. In addition, FINRA determined that Vannoy failed to appear and provide testimony as requested by FINRA. ([FINRA Case #2009018085001](#))

**Jared Weinryt (CRD #5186448, Registered Representative, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$7,500, suspended from association with any FINRA member in any capacity for two months and suspended from acting in a trader capacity or performing any broker-dealer trading functions for one year. The fine must be paid either immediately upon Weinryt's reassociation with a FINRA member firm following his two-month suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Weinryt consented to the described sanctions and to the entry of findings that he executed unauthorized proprietary trades that exceeded his position limit. The findings stated that Weinryt was responsible for his member firm's Five-Year Agency book and was responsible for trading federal agency products (Fannie Mae and Freddie Mac) in a "cash book" and futures contracts (Eurodollars and Treasuries) in a "futures book." The findings also stated that by the end of one trading day, Weinryt accumulated a futures position of approximately \$744 million, more than double his firm's agency desk limit of \$350 million and several multiples more than his personal position limit of \$85 million; by 5:00 a.m. the following morning, Weinryt exceeded his position limit with gross holdings in futures of \$1.33 billion. The findings also included that the market turned against Weinryt that morning and he attempted to reduce his position; later that morning, the firm identified (on a T+1 basis) a risk anomaly, which it traced to Weinryt, and cut off his access to the trading system. FINRA found that Weinryt was able to reduce



the cumulative position to \$740 million but the agency book sustained a realized loss of approximately \$4.7 million; the firm liquidated 75 percent of the remaining contracts and the balance was liquidated the following morning, resulting in even greater losses to the firm. Based on Weinryt's two-day trading, the firm proprietary account sustained realized losses totaling \$14.9 million. Since these were proprietary positions, there was no customer loss.

The suspension in any capacity is in effect from April 2, 2012, through June 1, 2012. The suspension in a trader capacity or from performing any broker-dealer trading functions is in effect from April 2, 2012, through April 1, 2013. ([FINRA Case #2009018841001](#))

**Mack Henry Wheat (CRD #5280243, Registered Representative, Las Vegas, Nevada)** submitted an Offer of Settlement in which he was suspended from association with any FINRA member in any capacity for two years. Without admitting or denying the allegations, Wheat consented to the described sanction and to the entry of findings that while employed with the insurance affiliate of his member firm, he permitted an individual's relative to sign the individual's name on documents in the individual's life application of which the individual's relative was the beneficiary, and instructed the relative to sign the individual's life application in different handwriting from his own to make it look as if the individual really signed it. Wheat submitted the life application to the insurance affiliate in order to obtain a life insurance policy in the individual's name. The findings stated that the affiliate required that a saliva specimen be submitted in connection with a life application in order to obtain life insurance to determine whether the applicant was a smoker and, thus, should be charged a higher premium for the life insurance policy. Wheat knowingly submitted a saliva specimen from the relative, falsely representing that the sample was from the individual. The findings also stated that the individual contacted the affiliate questioning his receipt of a bill to pay a premium on a life insurance policy he never took out. The individual told the affiliate that he never signed a life application, provided underwriting requirements or remitted a premium to the affiliate in connection with a policy. After an investigation, the policy was cancelled and Wheat was terminated. The findings also included that Wheat signed the names of potential customers on certain documents in the customers' life applications and submitted the falsified applications to the affiliate.

The suspension is in effect from March 5, 2012, through March 4, 2014. ([FINRA Case #2009016887201](#))

**Frederick John Winter (CRD #1321810, Registered Representative, Loveland, Colorado)** 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 Winter'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, Winter consented to the described sanctions and to the entry of findings that he had customers pre-sign documents that were incomplete or undated and at a later date, filled in the information on the documents and submitted the completed documents to the firm to process the transactions. The findings stated that Winter retained in his files numerous pre-signed documents for other clients that were either incomplete or undated but were located in Winter's files contrary to his firm's prohibition of representatives obtaining pre-signed documents or retaining pre-signed documents in their files.

The suspension was in effect from March 5, 2012, through April 3, 2012. ([FINRA Case #2010022025301](#))

**James Calvin Wylie Jr. (CRD #834405, Registered Representative, Ponte Vedra Beach, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for one month. Without admitting or denying the findings, Wylie consented to the described sanctions and to the entry of findings that he engaged in unapproved outside business activities when he provided consulting and analytical services on potential business transactions, outside the scope of his relationship with his member firm and without providing prompt written notice to his firm. The findings stated that Wylie inaccurately certified on an annual outside business activities questionnaire that he was not involved in any outside business activities.

The suspension was in effect from March 5, 2012, through April 4, 2012. ([FINRA Case #2010024027601](#))

**James Landon Yarbrough (CRD #703889, Registered Representative, Clearwater, Florida)** was barred from association with any FINRA member in any capacity. The Hearing Officer did not order restitution because FINRA's Department of Enforcement represented that the customer has been made whole by the customer's estate entering into a settlement agreement with Yarbrough. The sanction was based on findings that Yarbrough borrowed \$45,000 from a firm customer although his member firm's WSPs prohibited registered representatives from borrowing money from customers unless the customer was an immediate family member or a financial institution; Yarbrough had not requested nor received his firm's permission to borrow money from the customer. The findings stated that Yarbrough repaid the customer's estate \$5,000 of the \$45,000. The findings also stated that Yarbrough failed to appear for an on-the-record interview, impeding FINRA's investigation and preventing FINRA from completing its regulatory responsibility to fully investigate potential rule violations. ([FINRA Case #2010022751101](#))

## Individual Fined

**Glenn Loren Halpryn (CRD #1633028, Registered Principal, Aventura, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which he was censured and fined \$10,000. Without admitting or denying the findings, Halpryn consented to the described sanctions and to the entry of findings that he caused funds raised from a private placement offering to be used for due diligence on an unrelated prospective business venture. Although Halpryn later repaid the funds to the company, he caused them to be used in a manner inconsistent with the terms of the offering. ([FINRA Case #2010025076001](#))

## Decisions Issued

The Office of Hearing Officers (OHO) issued the following decisions, which have been appealed to or called for review by the National Adjudicatory Council (NAC) as of February 29, 2012. The NAC may increase, decrease, modify or reverse the findings and sanctions imposed in the decision. Initial decisions where the time for appeal has not yet expired will be reported in future FINRA Notices.

**CapWest Securities, Inc. (CRD #30002, Greeley, Colorado)** was censured and fined \$175,000. The sanctions were based on findings that the firm's communications to the public failed to disclose the risks involved in tenants-in-common interests (TICs), the existence of restrictions imposed on tax deferrals by provisions of the Internal Revenue Code, and the fact that property maintenance costs may erode tax benefits. The communications were replete with references to Section 1031 Exchanges without any explanation of what they were. Many extolled the benefits of an absence of management responsibilities without balancing these claims with explanations of the potential disadvantages inherent in a TIC owner's lack of control over potential costly management decisions. Most made no mention of any of the risks inherent in TICs, such as their lack of liquidity and potential loss of capital, creating an unwarranted impression of likely success. Seminar announcements advertised TICs and Section 1031 Exchanges but did not explain or even mention Internal Revenue Code restrictions that can diminish tax benefits and other advertisements, used terms such as "cap rates" and "cash-on-cash returns" without explaining them as they should. The findings stated that the communications contained exaggerated and misleading statements. A series of informational brochures made claims about the level of protection provided to investors by the SEC's regulation of TICs. The communications emphasized that the regulatory scrutiny directed at TICs implied a degree of safety or protection to investors that was unwarranted and misleading. These statements extolling the tax advantages of the TICs also exaggerated and misled on their face because they said TICs and Section 1031 Exchanges made property sales tax free, when at best they could result in tax deferrals. The findings also stated that a number of communications contained improper projections of returns. The firm's use of cash-on-cash flow projections, the adjective "typical" when describing TIC investments, and descriptions of returns that

may be earned by a hypothetical investor violated the proscription against predicting or projecting performance. The findings also included that the firm failed to implement its supervisory system adequately in connection with its review of the advertising and sales literature. The firm failed to provide the principals responsible for reviewing the sales literature and advertisements with an adequate understanding of FINRA's advertising rules. Through those principals, the firm failed to implement its procedure effectively. The result was the communications promoting TICs did not meet the standards but nonetheless were approved and disseminated to the public. FINRA found that not only did the firm fail to establish a supervisory system reasonably designed to achieve compliance with securities laws and regulatory rules but failed to implement that system effectively.

The NAC has called this decision for review and the sanctions are not in effect pending review. ([FINRA Case #2007010158001](#))

**Andre Mari Gonzales (CRD #5494315, Registered Representative, High Point, North Carolina)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Gonzales failed to respond to FINRA requests for information. The findings stated that Gonzales failed to timely respond to FINRA requests for information and documents.

The decision has been appealed to the NAC and the sanction is not in effect pending the appeal. ([FINRA Case #2010024330002](#))

**Paul James Marshall (CRD #1889692, Registered Supervisor, Marietta, Georgia)** was fined a total of \$3,500, suspended from association with any FINRA member in any capacity for 30 business days, and ordered to pay \$25,000, plus interest, in restitution to a customer. The fine is due and payable upon Marshall's return to the securities industry. The sanctions were based on findings that Marshall borrowed \$25,000 from a customer contrary to his member firm's policy prohibiting its registered representatives from borrowing money from customers without prior approval from the firm's compliance department. The findings stated that Marshall failed to timely respond to FINRA requests for information and documents.

The decision has been appealed to the NAC and the sanctions are not in effect pending the appeal. ([FINRA Case #2008014285801](#))

**Jeffrey B. Pierce aka Jeffrey Pierce Walles (CRD #3190666, Registered Representative, Waltham, Massachusetts)** was fined \$25,000 and suspended from association with any FINRA member in any capacity for one year. The fine is due and payable if and when Pierce applies to associate with a member firm following the suspension. The sanctions were based on findings that Pierce circumvented his member firm's procedures in order to conceal annuity switches in customer accounts. The findings stated that in connection with annuity replacement transactions, Pierce directed that the proceeds of the surrendered annuity be paid by check rather than direct deposit to the customer's account, making

it appear that the transaction was not an annuity switch. Pierce also presented the VA purchase as a new investment rather than a replacement. The findings also stated that Pierce did not identify the sale of an annuity as the source of funds for the new annuity on the annuity reporting sheets. Instead, Pierce falsely indicated that the source was a checking account, property sale, a certificate of deposit, an inheritance, or a death claim. The findings also included that Pierce failed to complete a switch form for each of the replacement transactions, thereby avoiding the firm's scrutiny and depriving customers of important information regarding surrender charges.

FINRA found that Pierce concealed the switches when he failed to use 1035 exchanges to defer tax liability in most of the switches at issue. FINRA also found that Pierce willfully failed to inform customers of material facts pertaining to the availability of 1035 exchanges to allow customers to defer paying taxes. In addition, FINRA determined that Pierce made misrepresentations to his firm regarding whether his customers were subject to adverse tax consequences as a result of their annuity purchases. As part of an internal review, the firm asked Pierce to complete a questionnaire that asked whether the customers had incurred adverse tax consequences through their annuity liquidations. Pierce falsely answered "no" to this question for all the customers at issue, despite the fact that some customers incurred taxable gains. Pierce asserted that he was on paternity leave, did not have access to his records, and did not take the inquiry seriously. Pierce's explanation is not a defense to the charge that he provided false information to his firm.

The decision has been appealed to the NAC and the sanctions are not in effect pending the appeal. ([FINRA Case #2007010902501](#))

## 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.

**Jeremy Michael Hart (CRD #2839085, Registered Representative, Windsor, Colorado)** was named as a respondent in a FINRA complaint alleging that through a company, he participated in the sales of unsecured promissory notes with an approximate aggregate value of \$1,347,000 to firm and non-firm customers for which he and his related entities received net proceeds of \$845,350. The complaint alleges that Hart created a company through which he sold promissory notes with an approximate aggregate value of \$1,434,000 to firm and non-firm customers. The complaint also alleges that the promissory notes for both entities were unregistered securities which Hart represented as being safe and risk free although none of the investors whose notes have matured received a return

of principal as promised and Hart has represented that no notes which are to mature in the future will be repaid. The complaint further alleges that the promissory note transactions in which Hart participated occurred outside the regular course and scope of his association with his member firms and he did not provide either firm with prior written notification of the proposed transactions, his proposed role therein and stating whether he had received, or might receive, selling compensation. In addition, the complaint alleges that customers invested approximately a total of \$1,039,773 with Hart, believing they were investing in an annuity, bank product, bonds, a fund, or a money market account when the funds were actually used to assist Hart's entities with their operations or to purchase a promissory note. Because Hart failed to invest customer funds as intended, he made improper use of their funds. Moreover, the complaint alleges that Hart failed to respond to FINRA requests for information and documents, impeding its investigation of his private securities transactions, outside business activities, misuse and/or conversion of customer and non-customer funds and his possible fraudulent conduct. ([FINRA Case #2009019060901](#))

**Charles William Kern III (CRD #2404048, Registered Supervisor, Charlotte, North Carolina) and Thomas Kee Haskins (CRD #4923808, Registered Representative, Lewisville, North Carolina)** were named as respondents in a FINRA complaint alleging that they recommended and effected the sale of uncovered puts and calls in an index as part of a combo strategy to customers who had conservative risk tolerances, no experience in trading options, limited financial resources, and no ability to bear the risks associated with the positions recommended in the options contracts. The complaint alleges that Kern and Haskins had no reasonable basis to believe that the options transactions were suitable given the financial circumstances, investment objectives, lack of knowledge and experience in financial matters, and inability of the customers to bear the risks of the recommended positions in the options contracts; some customers lost a total of approximately \$46,212.55 as a result of the unsuitable recommendations. The complaint also alleges that Kern and Haskins made material misrepresentations and/or omissions regarding risks and losses that could be incurred through investments using the combo strategy and failed to tell customers that losses could be unlimited and had no stop losses in place or any other automatic method to limit losses. The complaint further alleges that Kern falsified options forms with respect to some customers; he directed Haskins to obtain customer signatures on blank options forms and Kern then completed the forms in a manner that would assure the customers were approved for trading using the combo strategy. In addition, the complaint alleges that Kern misrepresented the options trading experience of customers on the forms, the customers' primary risk profile, customers' liquid net worth, annual income and overall net worth. Moreover, the complaint alleges that if Kern had completed the options forms with correct information, the firm would not have approved some customers for trading uncovered puts and calls. Furthermore, the complaint alleges that by inserting false information in customer account forms, Kern caused the books and record of his member firm to be inaccurate, in violation of SEC Exchange Act Rule 17a-3. The complaint also alleges that Kern exercised discretion in customers' accounts without prior written authorization in the accounts nor were the accounts accepted as discretionary by his firm. ([FINRA Case #2010023367001](#))

**James Scott McKee (CRD #3222516, Registered Principal, Eugene, Oregon)** was named as a respondent in a FINRA complaint alleging that he knowingly and recklessly induced his member firms' customers, through material misrepresentations and omissions, to invest a total of \$372,000 in various outside businesses, real estate ventures, in which he had a direct or indirect financial interest. The complaint alleges that McKee improperly used or converted \$652,215.36 belonging to customers for his own use and benefit. McKee improperly used some of these funds to pay off a customer, after the customer threatened him with legal action, and converted the balance of these funds to his own use and benefit. The complaint also alleges that McKee recommended that a local church with no investment experience invest \$100,000 in a small, high-risk, start-up venture which was inconsistent with the church's stated investment objectives and financial needs. McKee sought to disguise the unsuitable nature of the investment by recording false suitability information, including false assets, investment objectives and risk tolerances, on the church's account documents. The start-up venture later filed for bankruptcy and the church lost all of its \$100,000 investment. The complaint further alleges that McKee lied to his member firm, falsely indicating in a series of annual questionnaires that he had disclosed all of his outside business activities, when in fact he had failed to disclose some of them and failed to disclose his ongoing solicitation of firm customers to invest in these ventures. In addition, the complaint alleges that McKee engaged in private securities transactions involving outside real estate ventures. McKee solicited investments in these outside ventures without notifying or obtaining prior approval from his firms. Moreover, the complaint alleges that McKee failed to produce documents and information requested by FINRA. McKee lied to FINRA during his sworn on-the-record testimony, falsely stating that he did not solicit investments in outside real estate ventures, when in fact he had solicited customers to invest in these ventures. ([FINRA Case #2010025217901](#))

**Clyde Marshall Thornburg (CRD #1065161, Registered Principal, Palmetto, Florida)** was named as a respondent in a FINRA complaint alleging that he engaged in a pattern of recommending and executing, short-term trading and switching of Unit Investment Trusts (UITs), corporate debt, and mutual funds in customer accounts without having reasonable grounds for believing that such recommendations were suitable in view of the size and frequency of the recommended transactions, and in light of each customer's investment objectives, circumstances, financial situations and needs. The complaint alleges that Thornburg's actions caused these customers to pay approximately \$332,231 in sales charges. The customers' accounts had cumulative losses of approximately \$983,152. Thornburg generated gross commissions of about \$301,389, of which he received a significant portion based on his member firm's percentage payout structure. The complaint also alleges that at the time some of the customers opened their accounts, Thornburg informed them that they would not pay costs for trading products such as UITs and other securities; these customers paid sales charges, commissions, front-end loads and other costs when they believed they were not paying such costs. Thornburg misled some customers by omitting information about the actual charges they were paying



and by misrepresenting products as no costs when in fact they did have a charge. The complaint further alleges that none of Thornburg's customers provided him with prior written discretionary authority over their accounts nor had the accounts been accepted by Thornburg's firm as discretionary accounts, but Thornburg exercised discretion in each of the transactions occurring within these accounts. In addition, the complaint alleges that Thornburg's practice was to fill out Mutual Fund Disclosure Forms himself when he was causing a customer to purchase or switch mutual funds. On several Mutual Fund Disclosure Forms reflecting different transactions involving these customers, Thornburg signed the customer's name or caused the customer's name to be signed by someone other than the customer without authorization. Moreover, the complaint alleges that Thornburg provided false information about the customers' income, liquid net worth, risk tolerance and investment objectives, and forged or caused to be forged the names of several customers on Mutual Fund Disclosure Forms. Furthermore, the complaint alleges that by providing false information about the customers on the forms, by signing the names of customers or causing someone else to sign the names of customers on the forms, and by falsely representing that the customers were notified of the information contained in the disclosure forms, Thornburg caused his firm to maintain inaccurate books and records. ([FINRA Case #2009016272904](#))

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

**First Union Securities, Inc. (CRD #129502)**  
Shelton, Connecticut  
(February 1, 2012)  
FINRA Case #2010020875201

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**Firms Expelled 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.)

**Black Diamond Securities LLC  
(CRD #151228)**  
Kirkland, Washington  
(February 14, 2012)

**Oleet Securities, LLC (CRD #146895)**  
Burlington, Vermont  
(February 14, 2012)

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

**Abshier Webb Donnelly & Baker, Inc.  
(CRD #104051)**  
Houston, Texas  
(February 21, 2012)

**CM Securities, LLC (CRD #127136)**  
Las Vegas, Nevada  
(February 13, 2012)

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

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

**Philip Brown (CRD #5882828)**  
Cleveland, Tennessee  
(February 6, 2012)  
FINRA Case #2011026489401

**Sharde Ralmicshalyn Carrington  
(CRD #4971784)**  
Lakewood, California  
(February 21, 2012)  
FINRA Case #2011029007501

**Victor Alvarez Cota aka Victor Manuel Cota  
(CRD #2529702)**  
Tucson, Arizona  
(February 6, 2012)  
FINRA Case #2011029217901

**John Hagler Hopkins (CRD #4758571)**  
Lexington, Kentucky  
(February 21, 2012)  
FINRA Case #2011027741101

**Martin Derrick Jenkins (CRD #2623743)**  
Jupiter, Florida  
(February 17, 2012 – March 8, 2012)  
FINRA Case #2011028767901

**Juan Joshua Justiniano (CRD #4884101)**  
Providence, Rhode Island  
(February 13, 2012)  
FINRA Case #2010024929101

**Giang Truong Le (CRD #5797673)**  
San Diego, California  
(February 6, 2012)  
FINRA Case #2011026898101

**Fida Frank Rahman (CRD #1841337)**  
North Brunswick, New Jersey  
(February 6, 2012)  
FINRA Case #2010024409301

**Julius L. Smith III (CRD #5720130)**  
Fayetteville, Georgia  
(February 17, 2012)  
FINRA Case #2011029075801

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**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.)

**Ruben Francisco Augusta (CRD #2217612)**  
Brooklyn, New York  
(December 11, 2008 – December 28, 2011)  
FINRA Case #E9B2005016801

**Michael Dennis Berger (CRD #1785162)**  
Millington, New Jersey  
(February 2, 2012 – February 17, 2012)  
FINRA Case #2009017749701

**James Carl Gaul (CRD #218833)**  
Egg Harbor City, New Jersey  
(February 23, 2012)  
FINRA Case #2010021058402

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**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.)

**Michael Joseph Bresnahan (CRD #2353698)**  
Newton, Massachusetts  
(February 6, 2012)  
FINRA Case #2011027102201

**Jaclyn Marie Douglass (CRD #5465407)**  
Huntington, Maryland  
(February 27, 2012)  
FINRA Case #2011029246001

**Nancy Yukping Ewell (CRD #2120319)**  
Rancho Cucamonga, California  
(February 21, 2012)  
FINRA Case #2011028280201

**David Hugh Grant (CRD #5860497)**  
West Hartford, Connecticut  
(February 21, 2012)  
FINRA Case #2011029040001

**Paul Sidney Lewis (CRD #1112147)**  
Houston, Texas  
(February 17, 2012)  
FINRA Case #2011029428801

**Lenny Portes (CRD #5730913)**  
Flushing, New York  
(February 21, 2012)  
FINRA Case #2011030140401

**Jason Tran (CRD #5261787)**  
New York, New York  
(February 10, 2012)  
FINRA Case #2011029737401

**Kevin Antony Williams (CRD #2159172)**  
 Riverside, California  
 (February 23, 2012)  
 FINRA Case #2011028925601

**Jeffrey Woo (CRD #5118784)**  
 Flushing, New York  
 (February 21, 2012)  
 FINRA Case #2011026519901

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**Individuals 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.)

**William James McGuane (CRD #4223597)**  
 Aurora, Illinois  
 (February 3, 2012)  
 FINRA Arbitration Case #11-01508

**John Jerome O'Hara (CRD #3138961)**  
 Lexington, Kentucky  
 (February 3, 2012 – February 10, 2012)  
 FINRA Arbitration Case #10-02159

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

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

**Craig Stuart Balsam (CRD #2680237)**  
 Wellington, Florida  
 (February 6, 2012)  
 FINRA Case #20110299131/ARB110062

**Jeremy Michael Hart (CRD #2839085)**  
 Windsor, Colorado  
 (February 2, 2012)  
 FINRA Arbitration Case #10-01664

**Alan Randolph Isenberg (CRD #2707818)**  
 Plano, Texas  
 (February 2, 2012)  
 FINRA Arbitration Case #10-00274

**Jeffrey Joseph Jankowski (CRD #1580909)**  
 Denver, Colorado  
 (February 2, 2012)  
 FINRA Arbitration Case #10-04464

**David Scott Peters (CRD #1122750)**  
 Lakewood, Ohio  
 (February 2, 2012)  
 FINRA Arbitration Case #10-04648

**Richard Joseph Philipp (CRD #2273473)**  
 Sunrise, Florida  
 (February 2, 2012)  
 FINRA Arbitration case #10-05582

**Ben Elliot Rosenberg (CRD #4283236)**  
 Austin, Texas  
 (February 2, 2012)  
 FINRA Arbitration case #10-05227

## **FINRA Charges Charles Schwab & Co With Violating FINRA Rules by Using Class Action Waiver in Customer Agreements**

The Financial Industry Regulatory Authority (FINRA) announced that it has filed a complaint against Charles Schwab & Company charging the firm with violating FINRA rules by requiring its customers to waive their rights to bring class actions against the firm.

FINRA's complaint charges that in October 2011, Schwab amended its customer account agreement to include a provision requiring customers to waive their rights to bring or participate in class actions against the firm. Schwab sent the amended agreements to nearly 7 million customers.

The agreement also included a provision requiring customers to agree that arbitrators in arbitration proceedings would not have the authority to consolidate more than one party's claims. FINRA's complaint charges that both provisions violate FINRA rules concerning language or conditions that firms may place in customer agreements.

FINRA's complaint seeks an expedited hearing because Schwab's conduct is ongoing, as the firm has continued to use account agreements containing these provisions in opening more than 50,000 new customer accounts since October 2011.

The issuance of a disciplinary complaint represents the initiation of a formal proceeding by FINRA in which findings in the complaint have not been made, and does not represent a decision. Under FINRA rules, a firm or individual named in a complaint can file a response and request a hearing before a FINRA disciplinary panel. Possible remedies include a fine, censure, suspension or bar from the securities industry, disgorgement of gains associated with the violations and payment of restitution.

### **FINRA Fines Citi International Financial \$600,000 and Orders Restitution of \$648,000 for Excessive Markups and Markdowns**

The Financial Industry Regulatory Authority (FINRA) announced that it has fined Citi International Financial Services LLC, a subsidiary of Citigroup, Inc., \$600,000 and ordered more than \$648,000 in restitution and interest to more than 3,600 customers for charging excessive markups and markdowns on corporate and agency bond transactions, and for related supervisory violations.

Thomas Gira, Executive Vice President, FINRA Market Regulation, said, “FINRA is committed to ensuring that customers who purchase and sell securities, including corporate and agency bonds, receive fair prices. The markups and markdowns charged by Citi International were outside of appropriate standards for fair pricing in debt transactions, and FINRA will continue to identify and address transactions that violate fair pricing standards, regardless of whether a markup or markdown is above or below 5 percent.”

FINRA found that from July 2007 through September 2010, Citi International charged excessive corporate and agency bond markups and markdowns. The markups and markdowns ranged from 2.73 percent to over 10 percent, and were excessive given market conditions, the cost of executing the transactions and the value of the services rendered to the customers, among other factors. In addition, from April 2009 through June 2009, Citi International failed to use reasonable diligence to buy or sell corporate bonds so that the resulting price to its customers was as favorable as possible under prevailing market conditions.

During the relevant period, Citi International’s supervisory system regarding fixed income transactions contained significant deficiencies regarding, among other things, the review of markups and markdowns below 5 percent and utilization of a pricing grid for markups and markdowns that was based on the par value of the bonds, instead of the actual value of the bonds. Citi International was also ordered to revise its written supervisory procedures regarding supervisory review of markups and markdowns, and best execution in fixed income transactions with its customers.

In concluding this settlement, Citi International neither admitted nor denied the charges.