

Disciplinary and Other FINRA Actions

Firms Expelled, Individuals Sanctioned

Genesis Securities, LLC (CRD #46992, New York, New York) and William Chingwen Yeh (CRD #2688332, Registered Principal, Oyster Bay, New York) submitted an Offer of Settlement in which the firm was expelled from FINRA membership and Yeh was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, the firm and Yeh consented to the described sanctions and to the entry of findings that they operated two unregistered broker-dealers through master and subaccount arrangements at the firm. The findings stated that Yeh established and controlled the bank account and the offshore bank account of the unregistered broker-dealers, paying trading profits to subaccount traders from those accounts. Through the operation of the unregistered broker-dealers' master accounts, the firm received approximately \$5.8 million in trading commissions. The findings also stated that the firm and Yeh provided knowing and substantial assistance to several master accounts owned by domestic corporate entities so that they could operate as unregistered broker-dealers, and provided the structure and support by which the master accounts could operate as unregistered firms. The firm and Yeh were aware that the subaccounts and master accounts had different beneficial owners, that the master accounts charged the subaccounts transaction-based compensation, and that the master accounts profited by charging commission rates that were higher than the rates they paid the firm. The firm earned approximately \$7.2 million in commissions from the trading of these master accounts.

The findings also included that the firm and Yeh operated the unregistered broker-dealers so as to circumvent FINRA day-trading limitations. The firm and Yeh allowed the subaccount traders to day trade without making a minimum equity contribution of \$25,000 and provided them buying power of more than four times their maintenance margin excess. The firm and Yeh permitted subaccounts, which were purchasing and selling the same security on the same day, and doing so more than four times within five business days, to trade as pattern day traders for other master accounts without maintaining equity of \$25,000, the minimum requirement for pattern day traders under FINRA rules.

Reported for July 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 the firm's anti-money laundering (AML) policies, procedures and internal controls were not reasonably designed to achieve compliance with the Bank Secrecy Act (BSA) and the implementing regulations. The firm's written procedures were not tailored to its high-volume trading business and could not reasonably have been expected to detect and cause the reporting of suspicious activity and transaction. The firm ignored its obligations to comply with these requirements. The firm's AML procedures did not address how to monitor day traders from foreign jurisdiction accounts for suspicious activity, and the firm inadequately monitored the trading customers conducted on its platform. The firm failed to monitor effectively for potential wash trading. The exception report did not cover transactions executed on the New York Stock Exchange (NYSE). The firm failed to monitor effectively for potentially manipulative odd lot trading. The firm failed to establish procedures to obtain additional information about subaccounts in order to perform effective monitoring in light of the location of the subaccount traders and heightened risk. The firm also failed to perform heightened monitoring of the activity in those accounts. The firm used a foreign finder to find customers but failed to conduct due diligence on the foreign finder. The firm also failed to establish AML procedures addressing its use of the foreign finder or verification of the identity of the customers obtained through the foreign finder. The firm did not adequately monitor wire activity for potential money laundering. The firm ignored extensive "red flags" suggesting that its accounts were engaging in manipulative or otherwise unlawful activity. The firm did not attempt to determine whether the trading activity that resulted in regulatory inquiries violated FINRA rules or the securities laws. Despite receiving numerous regulatory inquiries and the fact that several subaccounts were repeatedly identified in those inquiries, the firm did not place any of the accounts under heightened supervision. The firm also did not track the activity identified in regulatory inquiries to determine if any accounts or types of activity were the focus of multiple reviews. The firm failed to establish and implement policies and procedures that could have been reasonably expected to detect and cause the reporting of suspicious activity or otherwise were reasonably designed to achieve compliance with the BSA and the implementing regulations.

FINRA also found that Yeh, as the firm's AML officer and president, was aware of the multiple regulatory requests about potentially manipulative trading by the firm's customers and did not take any effective steps to monitor such trading or curb potentially manipulative trading. Yeh also participated in potentially suspicious activity. Yeh established offshore bank accounts for an unregistered broker-dealer using his relative's name and operated under the pretense that she was managing the entity. Yeh signed emails to the banks on an unregistered broker-dealer's behalf using the relative's name. In addition, FINRA determined that the firm's supervisory systems and procedures were deficient in numerous ways. The firm's written supervisory procedures (WSPs) were not tailored to the firm's business. The firm's WSPs listed as red flags certain items that did not pertain to the firm, failed to address the master-subaccount structure of many of the firm's customers, that Yeh was operating two master accounts, foreign finders, steps when

reviewing exception reports, reviewing transactions for suspicious activity, and actions to take against an account that engaged in suspicious activity. The firm failed to establish, maintain and enforce written procedures to supervise the types of business in which it engages and to supervise the activities of its registered representatives.

Moreover, FINRA found that Yeh had individual supervisory obligations that he failed to carry out. Yeh established the master-subaccount structure at the firm, yet failed to take adequate steps to ensure that the firm had a supervisory system and WSPs tailored to that business. Yeh directly supervised the sales representatives for master and subaccounts using the firm's proprietary trading platform system, yet did not take any action to meaningfully review the trading of those sales representatives, even though those representatives could see their clients' trading activity. Furthermore, FINRA found that the firm failed to retain email for most of its proprietary traders for more than two years. The findings also stated that the firm received a FINRA Rule 9557 Notice directing it not to withdraw any capital, or make any unsecured loans or advances or otherwise reduce its capital position, other than through normal operating losses for the protection of investors and to continue until the firm completes the transfer of all customer accounts and related assets to another broker-dealer or notifies FINRA of its intentions to continue as a going concern, which would include filing annual audited financial statements. The transfer of customer accounts and related assets was completed. The firm then notified FINRA that it intended to withdraw \$5.1 million from the firm. The firm withdrew an aggregate of \$5.4 million in equity capital, which exceeded 10 percent of the firm's excess net capital, without FINRA's prior written approval for these withdrawals, and FINRA had not issued a letter of withdrawal of the Rule 9557 Notice. ([FINRA Case #2009021082501](#))

Hedge Fund Capital Partners, LLC (CRD #113326, Brooklyn, New York) and Howard Gordon Jahre (CRD #2238671, Registered Principal, New York, New York). The firm was expelled from FINRA membership and Jahre was barred from association with any FINRA member in any capacity. The National Adjudicatory Council (NAC) imposed the sanctions following appeal of an Office of Hearing Officers (OHO) decision. The sanctions were based on findings that the firm and Jahre distributed exaggerated, misleading and unbalanced institutional sales materials, and the firm failed to retain institutional sales materials. The findings also stated that the firm and Jahre allowed unregistered persons to act in registered capacities, allowed a registered representative to park her license at the firm, employed a statutorily disqualified individual, and willfully filed misleading Uniform Applications for Securities Industry Registration or Transfer (Forms U4) in connection with its employment of a statutorily disqualified individual. The NAC found that the firm failed to retain emails and instant messages; that the firm and Jahre failed to establish and maintain an adequate supervisory system and failed to establish, maintain, and enforce WSPs; and that the firm and Jahre provided false responses to numerous FINRA requests for information. Moreover, the NAC found that the firm and Jahre acted unethically by allowing a hedge fund tenant to pay its rent to the firm with soft dollars in violation of the tenant's offering memorandum.

The decision has been appealed to the Securities and Exchange Commission (SEC) and the sanctions are in effect pending consideration of the appeal. ([FINRA Case #2006004122402](#))

Firm Fined, Individual Sanctioned

Sicor Securities, Inc. (CRD #16195, Dayton, Ohio) and Gregory Lunar Merrick (CRD #2933448, Registered Principal, Tipp City, Ohio) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$50,000, \$10,000 of which was jointly and severally with Merrick. Merrick was also suspended from association with any FINRA member in a financial and operations principal (FINOP) capacity for 30 business days and required to requalify as a FINOP by passing the Series 27 examination, prior to associating with any FINRA firm as a FINOP, following the suspension. Without admitting or denying the findings, the firm and Merrick consented to the described sanctions and to the entry of findings that the firm, by and through Merrick, failed to prepare a net capital computation, and used the mails or other means or instrumentalities of interstate commerce to effect transactions in securities while failing to maintain its minimum net capital requirement. The findings stated that the firm, by and through Merrick, failed to make and keep current accurate ledgers and failed to prepare accurate net capital computations. The findings also stated that the firm, by and through Merrick, filed an inaccurate Financial and Operational Combined Single (FOCUS) Part IIA Report with regard to a three-month period.

The suspension is in effect from June 4, 2012, through July 16, 2012. ([FINRA Case #2010021015201](#))

Firms Fined

A.R. Schmeidler & Co., Inc. (CRD #5845, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$11,000. 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 the Order Audit Trail System (OATS™) on numerous business days. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws and regulations and FINRA rules concerning OATS reporting. ([FINRA Case #2011027899001](#))

Bedrok Securities LLC (CRD #13134, Rye, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$32,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to capture the correct trade execution time for transactions in Trade Reporting and Compliance Engine® (TRACE®)-eligible securities, which resulted in numerous violations, including that the firm failed to report the correct trade execution time for transactions in TRACE-eligible securities to TRACE, failed to report transactions in TRACE-eligible securities to TRACE within 15 minutes of the execution time, and failed to show the correct execution time on brokerage order memoranda. The findings stated that the firm failed to report to TRACE transactions in TRACE-eligible securities that it was

required to report, and failed to report the correct contra-party's identifier for transactions in TRACE-eligible securities to TRACE. The findings also stated that the firm inaccurately reported inter-dealer transactions as customer trades to TRACE and inaccurately reported the market participant identifier (MPID) in inter-dealer transactions to TRACE. The findings also included that the firm failed to preserve, for a period of not less than three years, the first two in an accessible place, brokerage order memoranda. ([FINRA Case #2009019331001](#))

Century Pacific Securities, Inc. (CRD #113698, Bellevue, Washington) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. FINRA imposed a lower fine after it considered, among other things, the firm's limited revenues and financial resources. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it maintained certain records in electronic formats without notifying its examining authority, FINRA, prior to employing electronic storage media; failed to preserve electronic mail correspondence in a non-rewriteable, non-erasable format; failed to store separately from the original a duplicate copy of its electronic records; and failed to implement its WSPs regarding the retention and review of electronic correspondence. The findings stated that the firm failed to print copies of all ingoing and outgoing electronic correspondence, and some outgoing correspondence was not forwarded to its president for review. The findings also stated that the firm revised its WSPs, which required that each of its principals review the other's electronic mail weekly via disk and that the review be documented. The revised procedures also required that the principals conduct periodic tests to determine that all electronic mail had been submitted via disk and each review be documented. Instead of preserving its electronic mail on disks, the firm printed most of its electronic mail, but not all business-related electronic mail and attachments were printed. The firm did not maintain evidence of each principal's review of the other's electronic mail or of tests conducted to determine that all electronic mail had been submitted for review. The findings also included that the firm thereby failed to establish, maintain and enforce a supervisory system and/or WSPs reasonably designed to ensure that it retained all electronic communications relating to its business, and that a principal review its electronic communications with the public. ([FINRA Case #2010020811601](#))

Duncan-Williams, Inc. (CRD #6950, Memphis, Tennessee) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report information regarding transactions effected in municipal securities to the Real-time Transaction Reporting System (RTRS) in the manner prescribed by Municipal Securities Rulemaking Board (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 stated that the firm failed to provide documentary evidence that during the review period, it performed the supervisory reviews set forth in its WSPs concerning MSRB Rule G-14. ([FINRA Case #2009018114701](#))

Jefferies Execution Services, Inc. (CRD #867, 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 entry of findings that it failed to report to the FINRA/NASDAQ Trade Reporting Facility (FNTRF) the correct capacity code for transactions in reportable securities. ([FINRA Case #2009021096701](#))

J.P. Morgan Securities LLC (CRD #79, 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 the firm's aggregate trade volume (buy and sell) for an equity security, advertised in private service providers, substantially exceeded, by approximately 118 percent, the firm's actual executed trade volume for that security. The findings stated that the firm was in the process of completing its merger with another company, and because the technology systems of the company and the firm were not fully integrated, multiple technology systems reported many trades. The firm's advertised trade volume was published to private service providers' subscribers. ([FINRA Case #2010022078001](#))

KeyBanc Capital Markets Inc. fka McDonald Investments Inc. (CRD #566, Cleveland, Ohio) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$85,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to have written policies and procedures relating to employees' personal investments and the supervision of those investments that were tailored to its business and reasonably designed to achieve compliance with NASD and FINRA rules. The findings stated that the firm sold its retail brokerage business, resulting in the firm's business becoming exclusively institutional. At the time, all retail accounts formerly held at the firm, including employees' accounts, were transferred to a non-affiliated retail broker-dealer. Following the divestiture of the retail brokerage business, the firm began the process of revising its various policies and procedures to conform to its new business model, but did not introduce revised policies and procedures relating to its employees' personal investments (PIP) until a later date. As a result of its failure to implement a revised PIP, the firm's PIP was inadequate because it was not tailored to the firm's exclusively institutional business model that existed after selling its retail brokerage business. The findings also stated that after the firm transferred its employee accounts to another broker-dealer, the firm continued to review employee trading through the Control Room Group to ensure that no employees traded in securities listed on the firm's Restricted and Watch Lists. However, the firm did not conduct the supervisory reviews of employee trades the PIP required because it was no longer a retail firm with branch supervisors. The findings also included that the firm did not establish and implement procedures applicable to its business model. Thus, the firm failed to implement a supervisory system, including written procedures, reasonably designed to achieve compliance with NASD and FINRA rules.

In addition, FINRA found that the firm failed to implement a supervisory system, including written procedures, reasonably designed to achieve compliance with its own policies and procedures, which were designed, in part, to prevent and/or detect conflicts of interest in employees' personal trading. The firm implemented revised policies and procedures governing employees' personal investments and the supervision of those investments (the Revised PIP), which required employees identified as Covered Persons to maintain their personal brokerage accounts at one of three approved broker-dealers, and to have all personal transactions pre-cleared by the firm's Control Room Group. The Revised PIP further required that Information Sensitive Employees (ISEs) who routinely work in business units that generate or have access to material, non-public information, obtain a supervisory principal's approval prior to effecting any personal transactions in addition to obtaining pre-clearance from the Control Room Group. When filling out requests for desired personal transactions, employees were only required to identify the quantity, price and Committee on Uniform Securities Identification Procedures (CUSIP) number involved in the transaction. The firm's policies and procedures did not require supervisory principals to identify the issuer prior to approving an employee's request. The PIP did not prohibit employee trades involving securities maintained in the firm's inventory. FINRA determined that the firm failed to provide supervisory principals with guidance on what steps they should take prior to approving an employee's personal transaction request. As a result of the lack of guidance regarding the supervisory review of employee trade requests, transactions on behalf of ISEs in the fixed income sales and trading group were approved by a supervisory principal without examining the requested trades to determine if there was a potential conflict of interest, despite the fact that the transactions involved CUSIP numbers of securities maintained in the firm's inventory and traded by those employees. Therefore, FINRA found that the firm failed to implement a supervisory system, including written procedures, reasonably designed to achieve compliance with its own policies and procedures, which were designed, in part, to prevent and/or detect conflicts of interest in employees' personal trading. ([FINRA Case #2009018590601](#))

Mahler & Emerson Inc. (CRD #7826, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. FINRA imposed a lower fine in this case after it considered, among other things, the firm's revenues and financial resources. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to conduct independent testing of its AML program. The findings stated that where the firm's securities business consists of proprietary trading, the firm was required to conduct independent tests every two years. The findings also stated that the firm did not have an adequate system to preserve emails the firm sent or received. The firm did not have any written procedures governing the use, review and retention of email correspondence. Rather, the firm permitted its registered representatives to utilize personal email accounts, and the firm did not archive emails sent to or from these addresses, so it failed to maintain and preserve copies of all of its internal and external business-related electronic email communications.

The findings also included that the firm did not have adequate WSPs to supervise the firm's registered representatives' compliance with NASD Rules 3030, 3040 and 3050; the firm did not have any procedures addressing these rules and thus did not take steps to ensure adequate supervision for compliance with the rules. The firm was unable to provide, and did not utilize, tools commonly employed to assist in supervising these areas such as annual certifications, questionnaires and/or attestations from registered representatives to ensure that the representatives had disclosed outside business activities and/or outside securities accounts to the firm. FINRA found that as a result, its examination staff determined that at least one of the firm's registered representatives was engaged in outside business activity not disclosed in writing on the firm's records, and one representative had securities accounts away from the firm. ([FINRA Case #2010021073501](#))

Manhattan Beach Trading Financial Services, Inc. dba MB Trading (CRD #30330, El Segundo, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$125,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that the firm opened accounts for foreign persons, who after opening the accounts, engaged in a pattern of fraudulent trading through the firm's direct market access (DMA) trading platform. The findings stated that without permission, the foreign persons improperly accessed unsuspecting customers' accounts held at other online broker-dealers, and engaged in a short-sale transaction scheme that guaranteed large profits in their accounts while causing losses in the unsuspecting customers' outside accounts. The findings also stated that the firm had inadequate written policies and procedures for opening new accounts and did not properly train its new accounts staff to review reports generated by an outside vendor the firm had retained to provide customer identification services. In addition to identity reports, the vendor provided a proprietary identity score that was based on address verification, phone number verification, an Office of Foreign Assets Control match and Social Security number verification. The findings also included that when evaluating a potential new customer, the firm was exposed to more risk as the identity score decreased, but the staff, when reviewing the identity reports, did not look beyond the identity score itself or review the account indicator codes on the same page as the identity score, which would have revealed numerous instances in which relevant account opening information for the foreign individuals could not be verified. Upon receipt of a low identity score, firm procedures required the new accounts staff to generate a report from a consumer credit reporting agency to verify the Social Security number of the potential customer, but the firm never trained its staff to review the information beyond three possible results, so the firm failed to note that for the foreign persons, the credit report advised that if the Social Security number is not a typo, then a Social Security number has never been issued for the individuals.

FINRA found that the firm failed to flag any trading activity on the accounts since the firm determined that the withdrawals were connected with the profitability of the account. The firm focused primarily on profits and withdrawals as well as the activity in thinly-traded

securities within their customer accounts. FINRA also found that the firm did not review closely for sudden/short term increases in profit and primarily examined the profit and loss of an account and not the timing of the trade. The firm was not focused on situations where a willing contra-party was on the other side of the trade, which is what existed with each of the foreigners' transactions. In addition, FINRA determined that unbeknownst to the firm, the foreign persons were on both sides of the transactions. The firm failed to take significant preventive measures to identify adequately their violative activities. ([FINRA Case #2010023995101](#))

Mercator Associates, LLC (CRD #112903, Toronto, Canada) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$15,000 and ordered to pay \$2,932.44, plus interest, in restitution to customers. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to contemporaneously, or partially, execute customer limit orders in over-the-counter (OTC) equity securities after it traded each subject security for its own market-making account at a price that would have satisfied each customer's limit order. The findings stated that the firm failed to show a correct term or condition on the memorandum of brokerage orders, by incorrectly denoting the orders as "held" instead of "not held" orders. ([FINRA Case #2011025973101](#))

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 \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that due to a coding error in its Smart Order Routing Technology, it improperly rounded protected market sub-penny quotes priced to three or more decimal places, causing the firm to improperly route intermarket sweep orders (ISOs) on a number of occasions and, in some instances, trade through protected quotes. As a result, the firm failed to take reasonable steps to establish that the ISOs it routed in sub-penny quotes met the definitional requirements set forth in SEC Rule 600(b)(30) of Regulation NMS. ([FINRA Case #2008012350501](#))

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, fined \$17,500 and ordered to pay \$7,425.35, 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 municipal securities for its own account to customers at an aggregate price that was not fair and reasonable, taking into consideration all relevant factors, including the best judgment of the broker, dealer or municipal securities dealer as to the fair market value of the securities at the time of the transaction, and of any securities exchanged or traded in connection with the transaction, the expense involved in effecting the transaction, the fact that the broker, dealer, or municipal securities dealer is entitled to a profit, and the total dollar amount of the transaction. ([FINRA Case #2008014732601](#))

Morgan Keegan & Company, Inc. (CRD #4161, Memphis, Tennessee) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$67,500 and required to revise its WSPs regarding short interest reporting. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to identify its correct capacity in last sale reports of transactions in designated securities reported to the FNTRF. The findings stated that over the course of approximately 18 months, the firm submitted incorrect short interest position reports to FINRA and, in some cases, failed to report them at all. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning short interest reporting. ([FINRA Case #2008015095301](#))

Morgan Stanley & Co. LLC (CRD #8209, 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 findings, the firm consented to the described sanctions and to the entry of findings that it failed to report to the FNTRF one last sale report of a transaction for approximately 4.5 million shares in a NASDAQ security. ([FINRA Case #2010021485301](#))

Morgan Stanley & Co. LLC (CRD #8209, New York, New York) and Morgan Stanley Smith Barney LLC (CRD #149777, Purchase, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firms were censured; Morgan Stanley & Co. LLC (MS&Co.) was fined \$175,000, \$25,000 of which was jointly and severally with Morgan Stanley Smith Barney (MSSB); and the firms shall provide to all previously identified former customers who purchased Class B units, and have not received remediation as of the date of the Notice of Acceptance of the AWC, remediation equal to the sum of \$84.50 per Class B unit owned by such non-remediated customer on the call date. Without admitting or denying the findings, the firms consented to the described sanctions and to the entry of findings that as a result of the incorrect set up of the security in MS&Co.'s Master Security Database system (MSD), the firms negligently provided inaccurate information concerning the call price and yield of the Class B units to investors. The call price and yield that the firms' financial advisers disclosed to investors were higher than the actual call price and yield of the securities. The findings stated that the firms' financial advisers failed to disclose to customers who purchased in the secondary market that the Class B units were interest-only, amortizing securities. All of this information was material to investors. MS&Co. sold the units to customers, who purchased over \$16 million worth of the units; and MSSB sold the units to customers, who purchased over \$3.6 million worth of the units. The findings also stated that when the units were first offered, MS&Co. negligently provided Bloomberg with inaccurate information concerning the call price of the units. As a result, the security details on Bloomberg provided inaccurate information. The findings also included that after the units were called, MSSB received a customer complaint alleging that it had misrepresented the call price of the units. In responding to the complaint, the firms discovered that the same misrepresentation had been made to all persons who purchased

the units through the firms. FINRA found that the firms voluntarily remediated current and certain former customers by making payments in the total amount of approximately \$473,000 and have agreed to pay approximately \$220,000 in remediation to additional former customers FINRA has identified. In total, the firms shall have paid more than \$693,000 in remediation to affected customers. FINRA also found that the firms sold units to customers for which trade confirmations were issued. The trade confirmations disclosed call prices and yields that were greater than the actual call price and yield of the units at the time. ([FINRA Case #2010024540501](#))

Morgan Stanley Smith Barney LLC dba Morgan Stanley Smith Barney (CRD #149777, Purchase, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$62,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted Execution or Combined Order/Execution Reports to OATS that OATS was unable to link to the related trade reports in a FINRA transaction reporting system, and transmitted Route or Combined Order/Route Reports to OATS that OATS was unable to link to the related order in the NASDAQ Market Center due to inaccurate, incomplete or improperly formatted data. The findings stated that the firm failed to report large block S1 transactions in TRACE-eligible and TRACE-eligible agency debt securities to TRACE within 15 minutes of execution time. The findings also stated that the firm failed to report information regarding transactions effected in municipal securities to the RTRS. ([FINRA Case #2010021569401](#))

Natixis Securities Americas LLC fka Natixis Bleichroeder, LLC (CRD #1101, 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 findings, the firm consented to the described sanctions and to the entry of findings that it failed to have WSPs designed to ensure the firm's compliance with certain regulations promulgated under the BSA. The findings stated that the firm did not have WSPs requiring broker-dealers to file with the U.S. Department of Treasury Reports of Foreign Bank and Financial Accounts (known as FBARs). The FBAR filings are important tools designed to report to the federal government the number of foreign bank accounts in which a firm has a financial interest, or over which it has signatory authority. Procedures designed to ensure compliance with the BSA are a required component of a reasonable AML compliance program. The findings also stated that on an annual basis, the firm had a financial interest in, on average, 175 accounts. As a result of the firm's failure to establish WSPs covering this area, the firm failed to timely file its FBARs. ([FINRA Case #2011025580601](#))

Newport Coast Securities, Inc. (CRD #16944, Irvine, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$100,000, and the firm's president shall certify within 60 days of the date of the AWC that the firm is in compliance with FINRA Rule 3310 by establishing and implementing AML policies, procedures and internal controls with respect to its monitoring for suspicious transactions that are reasonably designed to achieve compliance with the requirements of the BSA and

the Treasury's implementing regulations. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that its AML systems, procedures and internal controls for monitoring suspicious activity were inadequate and not reasonably designed to monitor and achieve compliance with the requirements of the BSA, implementing regulations or FINRA rules. The findings stated that according to the AML procedures, the firm would monitor account activity for patterns of unusual size, volume, pattern or type of transactions, other red flag activity, trading and wire transfers. The AML Chief Compliance Officer (AMLCO), reviewed exception reports the firm's two clearing firms provided to detect patterns of suspicious activity. These reports were designed only to capture accounts with a certain number of transactions but were not designed to capture patterns of suspicious trading across accounts or by security, and were incapable of capturing such activity. The findings also included that the only report available to firm personnel for detecting suspicious trading activity was the frequency report, which was incapable of capturing patterns of suspicious trading activity, leaving the firm's manual review of its daily trade blotters as the only other tool for attempting to identify potentially suspicious trading activity.

FINRA found that according to the firm, the head trader was responsible for using the daily trade blotters to identify any irregular trading activity at the firm. Yet, there was no formal designation of this responsibility by the AMLCO to the head trader, and no evidence that the head trader utilized the trade blotters to monitor for suspicious activity. According to the firm, at the branch level, the branch office managers were to review daily trade blotters for account activity and unusual trading activity, but there was no formal designation of this responsibility by the AMLCO to the branch managers, and no process for determining under what circumstances the firm should consider filing a suspicious activity report (SAR). The branch office managers also failed to use the daily trade blotters to monitor for suspicious activity. The firm's AMLCO acknowledged that the trade blotters alone could not be used to capture unusual patterns or types of suspicious transactions. This, coupled with the firm's failure to provide meaningful guidance to its personnel to monitor for, detect and investigate suspicious trading activity, rendered its AML systems, procedures and internal controls unreasonable. FINRA also found that some of the firm's customers' accounts traded an entity's no-information Pink Sheet stock, and several of these accounts were assigned to one of the firm's branch office managers or to one of the registered representatives the branch office manager supervised. The branch office manager was on the Board of Directors for the entity, and the registered representative held several family or personal accounts that traded the entity. The firm should have identified these as red flags, but did not. The registered representative engaged in matched trading in the stock between his account and a joint account. The principal who approved the transactions was the branch office manager who served on the entity's Board of Directors. Due to the firm's deficient AML program, it failed to detect and investigate a customer with a questionable background who engaged in money laundering. ([FINRA Case #2009017333501](#))

Prager & Co., LLC fka Prager, Sealy & Co., LLC (CRD #21567, San Francisco, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$27,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report 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 to an RTRS Portal within 15 minutes after the execution time. The findings stated that the firm erroneously canceled reports of transactions in municipal securities and failed to re-submit those reports to the RTRS. The findings also stated that the firm failed to enforce its WSPs. ([FINRA Case #2009017094601](#))

The PrinceRidge Group LLC (CRD #149758, 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 reported to TRACE that approximately 52 percent of its TRACE-eligible trades were customer trades when they were actually inter-dealer trades. ([FINRA Case #2011025774601](#))

RBC Capital Markets Corporation nka RBC Capital Markets, LLC (CRD #31194, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$200,000, and ordered to pay \$70,000 in partial restitution to a customer. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that a firm registered representative engaged in unsuitable, excessive trading in elderly customers' accounts by purchasing closed-end funds (CEFs) for them at the initial public offering (IPO), but then selling the CEFs within the next several months. The representative also exercised discretion in several accounts, without the customers' written authorization or the firm's written acceptance of the accounts as discretionary. The elderly customers lost a total of approximately \$390,000 in their accounts. The findings stated that the firm underwrote IPOs involving CEFs but did not have a system and written procedures reasonably designed to detect and prevent patterns of unsuitable short-term trading of CEFs, including those purchased at the IPO. The firm's WSPs failed to address the suitability of recommendations involving CEFs and did not provide any guidance to supervisors about potential abuses relating to short-term trading sales of CEFs purchased at the IPO, so the firm's supervisors lacked adequate guidance concerning potential problems involving CEF transactions. The findings also included that the firm did not utilize any exception reports or other processes to detect short-term trading of CEFs. The sole means available to firm supervisors to identify such trading was through the daily review of trade blotters. Given the hundreds of potential transactions supervisors were required to review daily, this was an ineffective system.

FINRA found that the trade blotters did not identify when the CEFs had been purchased or if they had been acquired at the IPO. Accordingly, firm supervisors did not have an effective way to determine how long a customer held a CEF before the sale. As a result of the

firm's supervisory deficiencies, the firm failed to timely detect and prevent the registered representative's unsuitable short-term trading of CEFs. FINRA also found that the firm filed an inaccurate Uniform Termination Notice for Securities Industry Registration (Form U5) for the registered representative. In response to a disclosure question, the firm reported that the registered representative was not under internal review at the time of his termination when, in fact, he had been under such review. ([FINRA Case #2010022094901](#))

Regal Securities, Inc. (CRD #7297, Glenview, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$13,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that in customer transactions, the firm sold (or bought) corporate 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 the market conditions with respect to each bond at the time of the transaction, the expense involved, and the fact that the firm was entitled to a profit. The firm has made restitution in the amount of \$5,517.96 to its relevant customers. ([FINRA Case #2009020769201](#))

Sammons Securities Company, LLC (CRD #115368, Ann Arbor, Michigan) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report transactions in TRACE-eligible securities to TRACE within 15 minutes of the execution time. The findings stated that the firm double-reported transactions in TRACE-eligible securities to TRACE. ([FINRA Case #2010024384101](#))

Van Kampen Funds Inc. (CRD #6939, Houston, Texas) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report 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 stated that the firm failed to report the correct trade time to the RTRS in municipal securities transaction reports and failed to record the correct trade time on the trade memorandum for the trades in municipal securities. ([FINRA Case #2010024499901](#))

VCAP Securities, LLC (CRD #124515, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$30,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that a non-member affiliate of the firm retained the firm's emails in its archive, which was not readily accessible to the firm. The findings stated that it was only on a later date that the firm had an agreement with the affiliate granting it unfettered access to its emails. The findings also stated that the firm did not engage any such third-party vendor

with access to, and the ability to, download information from the firm's electronic storage media to another acceptable medium, and no third party undertaking to promptly furnish to the designated examining authority for the member, broker or dealer, information necessary for downloading information from the firm's electronic storage system, and to provide access to information contained on the firm's storage system. The findings also included that the firm failed to adequately implement its procedures, or implement a reasonable supervisory system, for the review of its registered representatives' email communications with the public relating to the firm's business. The firm relied on its registered representatives to manually forward email correspondence to a particular electronic compliance mailbox, which was intended to automatically forward the emails to the principals for review. When emails were forwarded to the compliance mailbox, they were not always forwarded to principals for review due to a programming error. The principals responsible for reviewing the emails did not have direct access to the compliance mailbox. FINRA found that the firm did not have an adequate system in place to ensure that email communications were in fact being forwarded to, and being received, by principals for review. The firm instead relied upon spot-checks to enforce compliance, but these checks did not provide a reliable means to timely detect if emails had not been forwarded. Although an email archiving system preserved the emails, the supervisors did not have access to the email archive to confirm that representatives had properly forwarded emails and that the supervisors had received those emails. ([FINRA Case #2010021119401](#))

Individuals Barred or Suspended

Matthew Stuart Abrams (CRD #2635235, Registered Principal, Potomac, Maryland) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$28,000, which includes disgorgement of commissions received of \$13,000, and suspended from association with any FINRA member in any capacity for one year. The fine must be paid either immediately upon Abrams' 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, Abrams consented to the described sanctions and to the entry of findings that he negligently omitted and misrepresented material facts in connection with his sales of promissory notes issued by entities and by an individual who controlled the entities. The findings stated that Abrams failed to disclose to investors that one of the companies, and certain other companies the individual controlled, had been experiencing cash-flow problems and had failed to make required interest payments to investors. Abrams also failed to disclose that the notes two entities and the individual issued were high-risk and misrepresented the safety of those investments. Abrams received approximately \$13,000 in commissions from the sales. The findings also stated that Abrams recommended to customers that they purchase the notes but lacked reasonable grounds for believing that the securities were suitable for each of the customers in light of their particular investment objectives, financial situation and needs. Abrams failed to fully understand the risks associated with the notes offerings.

The suspension is in effect from June 4, 2012, through June 3, 2013. ([FINRA Case #2010021058405](#))

Erin Christine Ackerman (CRD #4663913, Registered Principal, Henderson, Nevada) submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$20,000 and suspended from association with any FINRA member in any principal capacity for 18 months. The fine must be paid either immediately upon Ackerman's reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Ackerman consented to the described sanctions and to the entry of findings that she failed to reasonably supervise the firm's registered representatives in connection with the sale of shares of a real estate investment trust (REIT) to retail customers. In addition, Ackerman, as Chief Compliance Officer (CCO), failed to establish, maintain and enforce an adequate supervisory system to monitor customer accounts for potentially unsuitable levels of concentration in a security or investment sector, or to determine whether a purchase was suitable for a customer based on the customer's investment objectives and risk tolerance. Based on the unsuitable recommendations, the customers purchased a total of \$1,679,304 in the REIT shares. The findings also stated that since the shares were de-valued and the company filed for involuntary bankruptcy, the customers lost their entire principal investment in the REIT. The findings also included that despite red flags, Ackerman failed to take reasonable steps to ensure the suitability of the sales of the REIT to customers. Other than her approval signature on the customers' new account documents, nothing indicated that she performed a supervisory review of the suitability of the REIT purchase, including a review for unsuitable concentration. FINRA found that although Ackerman's firm sold shares of the REIT almost exclusively, she failed to tailor the firm's WSPs to its business model. Specifically, the WSPs failed to adequately address alternative investments, did not identify the financial suitability requirements and didn't include any guidance regarding a review for unsuitable concentration levels of a security or sector in a customer's account. FINRA also found that Ackerman was unable to demonstrate that she performed an adequate suitability review or followed up on red flags. These supervisory deficiencies contributed to her failure to detect the representatives' unsuitable recommendations.

The suspension is in effect from June 18, 2012, through December 17, 2013. ([FINRA Case #2009017346701](#))

Andrew James Aragona (CRD #1320844, Registered Representative, Deerfield Beach, Florida) was fined \$138,500 and suspended from association with any FINRA member in any capacity for one year. The fine is due and payable when and if Aragona seeks to re-enter the securities industry. The sanctions were based on findings that Aragona recommended unsuitable variable annuity switches to an elderly customer. The findings stated that Aragona failed to conduct an objective, quantitative analysis of the benefits of the recommended switches, so the customer incurred \$130,000 in surrender fees, which was more than 10 percent of the value of her investment, but Aragona earned \$123,500 from the switches.

The suspension is in effect from July 2, 2012, through July 1, 2013. ([FINRA Case #2010023963301](#))

Daniel Richard Asner (CRD #2566336, Registered Supervisor, Phoenix, Arizona) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$70,000, which includes disgorgement of the \$65,000 received in compensation, and suspended from association with any FINRA member in any capacity for nine months. The fine must be paid either immediately upon Asner'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, Asner consented to the described sanctions and to the entry of findings that he participated, outside the scope of his employment with his member firm, in private securities transactions involving the sale of shares of a start-up company and entered into a finder's fee agreement with the company. Individuals whom Asner contacted purchased shares for a combined total of approximately \$650,000 and Asner received approximately \$65,000 in compensation. The findings stated that Asner failed to provide his firm with prior written notice of his proposed participation in these transactions and failed to receive the firm's prior written approval.

The suspension is in effect from May 7, 2012, through February 6, 2013. ([FINRA Case #2010023880001](#))

Christopher Lynn Belonge (CRD #4223871, Registered Principal, Jim Falls, Wisconsin) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$54,819, which includes disgorgement of commissions received of \$34,819, suspended from association with any FINRA member in any principal capacity for six months, and suspended from association with any FINRA member in any capacity for four months. Suspensions were to be served concurrently. The fine must be paid either immediately upon Belonge's reassociation with a FINRA member firm following his six-month suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Belonge consented to the described sanctions and to the entry of findings that his member firm sold general obligation bonds of an issuer, backed by a pool of underlying life insurance policies, by means of a private placement memorandum (PPM) or prospectus and were intended only for accredited investors. The findings stated that unbeknownst to Belonge, issuer principals transferred approximately \$37 million in customer funds into a bank account, which they used as a slush fund to pay for business/personal expenses, commissions and payroll expenditures. The findings also stated that Belonge assumed supervisory responsibilities of the bonds, and his duties included reviewing and approving customer transactions on the firm's behalf. Belonge failed to adequately supervise the firm's sales of the bonds with respect to suitability and failed to take adequate steps to ensure the product was being marketed and sold to accredited, or otherwise suitable investors; failed to issue effective instructions to registered representatives regarding the need to determine if investors

were accredited; failed to undertake any review of whether the issuer was suitable for firm customers; and failed to implement any safeguards to ensure the firm distinguished accredited from non-accredited investors, resulting in the firm marketing and selling the product to any customer who expressed interest. The findings also included that Belonge conducted little due diligence on the issuer, and missed or ignored critical issues, which if they had been reviewed objectively would have led to additional cause for concern about the bona fides of the issuer and its principals. Belonge did not conduct any independent background checks on one principal and did not conduct a follow-up review on another who did not have experience in securities, resulting in the failure to discover that the principal had been charged with a felony. FINRA found that Belonge failed to engage in adequate due diligence regarding the bonds and their terms. Knowing that the firm's due diligence was inadequate, Belonge personally made sales of the bonds to customers for which he was paid commissions totaling \$34,819.

The suspension in any principal capacity is in effect from May 7, 2012, through November 6, 2012. The suspension in any capacity is in effect from May 7, 2012, through September 6, 2012. ([FINRA Case #2009019823801](#))

David Louis Bocchino (CRD #3168609, Registered Representative, Bradenton, Florida) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$7,500, which includes disgorgement of \$2,850 in commissions, and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Bocchino'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, Bocchino consented to the described sanctions and to the entry of findings that he became licensed with a company that underwrites life settlement contracts and, while registered with his firm, sold a \$30,000 unregistered security to an individual. The findings stated that the customer was to use the funds to purchase issued life insurance policies, and upon the death of the insureds, receive a portion of the death benefit from each policy. The individual used funds from his individual retirement account (IRA) at another firm to make the investment. Bocchino received \$2,850 in commissions in connection with the transaction. The findings also stated that Bocchino failed to provide his firm with prior written notice and failed to obtain his firm's written approval concerning the transaction although the firm's WSPs explicitly prohibited the sale of life settlements.

The suspension is in effect from May 21, 2012, through August 20, 2012. ([FINRA Case #2010023743901](#))

Thomas Michael Buehler (CRD #2257320, Registered Principal, Alpharetta, Georgia) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any principal capacity for 20 business days. The fine must be paid either immediately upon Buehler'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, Buehler consented to the described sanctions and to the entry of findings that he failed to take appropriate action to reasonably supervise a registered representative to detect and prevent his violations, including his willful violation of Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder. The findings stated that Buehler, among other things, failed to take reasonable steps to follow up on certain indications of potential misconduct that should have alerted him to the registered representative's violations. Buehler never contacted any of the customers who were the subject of the registered representative's mutual fund switch recommendations to verify whether he had disclosed to them the option of utilizing free exchanges or to determine whether they understood the costs associated with the mutual fund switch. The findings also stated that Buehler never questioned the registered representative about his repeated pattern of mutual fund switching involving Class A shares or his identification of every trade as unsolicited. Buehler never rejected any of the registered representative's mutual fund switches or advised him to consider less costly investment strategies for customers. The findings also included that Buehler never placed the registered representative on heightened supervision or restricted his activity.

The suspension was in effect from June 4, 2012, through June 29, 2012. ([FINRA Case #2009019209203](#))

James W. Carney Jr. (CRD #4422841, Registered Representative, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for one month. The fine must be paid either immediately upon Carney'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, Carney consented to the described sanctions and to the entry of findings that he engaged in outside business activities without disclosing his participation to his member firm. Carney provided capital for interrelated debt management businesses to operate, received and reviewed the entities' financial statements, and engaged in email communications during the trading day concerning these businesses. A third entity was a trust for which he was the trustee and beneficiary; the fourth was a beer brewing company for which he became the proprietor. The findings stated that Carney failed to provide prompt written notice to his firm concerning any of these activities and certified to his firm in two annual compliance questionnaires that he had not engaged in any outside business activity.

The suspension was in effect from May 7, 2012 through June 6, 2012. ([FINRA Case #2010023092901](#))

Douglas Brent Cartwright (CRD # 2905631, Registered Supervisor, Kimberly, 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 90 days. The fine must be paid either immediately upon Cartwright'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, Cartwright consented to the described sanctions and to the entry of findings that he recommended, and the customer invested, \$400,000 in Cartwright's outside business entity, a company Cartwright owned and controlled. The investment took the form of a promissory note which Cartwright executed on his outside business' behalf. The note provided for annual payments of interest. The findings stated that Cartwright did not provide notice to his firm that he was recommending and otherwise participating in an investment away from the firm. The firm's policies specifically prohibited registered representatives from engaging in private securities transactions, regardless of whether they received compensation for effecting the transaction.

The suspension is in effect from June 4, 2012, through September 1, 2012. ([FINRA Case #2009020922101](#))

Alfred Chi Chen (CRD #3173732, Registered Representative, Antelope, California) submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Chen consented to the described sanction and to the entry of findings that he engaged in unauthorized transactions in customers' accounts and that he recommended unsuitable reverse convertible instruments. The findings stated that Chen engaged in unauthorized transactions in three customers' accounts, including two customers who had died up to a week before the trades were executed. The findings also stated that Chen recommended reverse convertible notes (RCNs) to several elderly customers, and that his recommendations were inconsistent with their lack of investment experience and sophistication, were inappropriate in light of their age and other investible assets, and were unsolicited. The findings also stated that Chen changed the risk tolerance for some customers from low to medium so that his member firm would approve their RCN purchases. The findings also included that Chen recommended RCNs indiscriminately and did not stop with the initial recommendation but steadily built up the concentration of RCNs in the customers' accounts so that most of the customers had all, or close to all, of their assets invested in RCNs. FINRA found that Chen's recommendations resulted in the RCN customers generating approximately \$192,945.25 in gross dealer commissions, with Chen receiving approximately \$69,000 for the transactions. FINRA also found that many of the RCN customers lost money as a result of the trades Chen recommended. ([FINRA Case #2008015651902](#))

Lois N. Cohen (CRD #1581417, Registered Principal, Atlanta, Georgia) submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$7,500 and suspended from association with any FINRA member in any principal capacity for four months. Without

admitting or denying the findings, Cohen consented to the described sanctions and to the entry of findings that she failed to take appropriate action to reasonably supervise a registered representative to detect and prevent his violations, including his willful violation of Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder. The findings stated that Cohen, among other things, failed to take reasonable steps to follow up on certain indications of potential misconduct that should have alerted her to the registered representative's violations. Cohen never contacted any of the customers who were the subject of the registered representative's mutual fund switch recommendations to verify whether he had disclosed to them the option of utilizing free exchanges or to determine whether they understood the costs associated with the mutual fund switch. The findings also stated that Cohen never questioned the registered representative about his repeated pattern of mutual fund switching involving Class A shares or his identification of every trade as unsolicited. Cohen never rejected any of the registered representative's mutual fund switches or advised him to consider less costly investment strategies for customers. The findings also included that Cohen never placed the registered representative on heightened supervision or restricted his activity.

The suspension is in effect from June 18, 2012, through October 17, 2012. ([FINRA Case #2009019209201](#))

Christopher Collins (CRD #2167964, Registered Representative, Southampton, 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 one year. The fine must be paid either immediately upon Collins' 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, Collins consented to the described sanctions and to the entry of findings that he failed to timely respond to FINRA requests to appear at an on-the-record interview.

The suspension is in effect from May 21, 2012, through May 20, 2013. ([FINRA Case #2011027608602](#))

Brendan Walter Coughlin (CRD #4917244, Registered Principal, Dallas, Texas) and Henry Deimel Harrison (CRD #4919907, Registered Principal, Dallas, Texas) submitted an Offer of Settlement in which they were each fined \$50,000 and suspended from association with any FINRA member in any capacity for two years. As to each of the respondents, the fine must be paid either immediately upon reassociation with a FINRA member firm following the suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the allegations, Coughlin and Harrison consented to the described sanctions and to the entry of findings that they were the sole managing partners and registered principals of their member firm, and served on an affiliated issuer's board of managers. The findings stated that Coughlin and Harrison, acting through their firm, marketed and sold preferred stock

in a series of private placements the affiliated issuer offered. The issuer's offerings each claimed an exemption from the registration pursuant to Rule 506 of Regulation D of the federal securities laws. Coughlin and Harrison conducted each offering through a syndicate of participating retail broker-dealers, and the offerings were sold nationwide to customers through these retail broker-dealers that executed participation agreements with their firm, raising approximately \$485 million. The findings also stated that the retail broker-dealers received fees and/or commissions for soliciting investors in these offerings, including a sales commission and a specific fee related to due diligence purportedly performed by the broker-dealers in connection with each offering. The findings also included that Coughlin and Harrison communicated incomplete information to representatives and principals of the broker-dealer syndicate regarding how dividend payments and redemptions by the offerings were actually being funded, when they knew, or should have known, that dividend payments and redemptions were actually being funded, in part, by capital surplus and loan proceeds. FINRA found that Coughlin and Harrison failed to disclose to principals and representatives of the broker-dealer syndicate the extent of the involvement of an individual with a disciplinary history in the operation of the issuer, and his conflict of interest arising from the bankruptcy asset purchases. At the time of these omissions, Coughlin and Harrison knew, or should have known, that the individual's involvement in the operation of the issuer was material.

The suspensions are in effect from June 4, 2012, through June 3, 2014. ([FINRA Case #2009017497202](#))

Martha Rose Cousino (CRD #1345999, Registered Representative, Boulder, Colorado) submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Cousino consented to the described sanction and to the entry of findings that she failed to respond to a FINRA request for information regarding its investigation of, among other things, a lawsuit a prior securities customer filed against her. The findings stated that Cousino, through her attorney, sent FINRA a letter in which she declined to respond in any manner to FINRA's request for information. ([FINRA Case #2010023057602](#))

Stanley Neil Crooms (CRD #852539, Registered Representative, St. Petersburg, Florida) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Crooms consented to the described sanction and to the entry of findings that he failed to provide all of the information FINRA requested as part of an investigation into allegations that he had misappropriated customer funds. ([FINRA Case #2011028610001](#))

Robert Lane Dahse (CRD #4511017, Registered Representative, Kyle, Texas) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for 30 days. The fine must be paid either immediately upon Dahse' 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, Dahse consented to the described sanctions and to the entry of findings that he entered into agreements to sell life settlement products for compensation without providing notice to his member firm or requesting his firm's permission. The findings stated that Dahse did not sell the products or distribute literature to his clients but referred them to other agents to receive compensation in the form of referral fees. Dahse received a total of \$10,798 in referral fees.

The suspension was in effect from May 7, 2012 through June 5, 2012. ([FINRA Case #2010023612306](#))

Dishon Jared Dawson (CRD #5245594, Registered Representative, Wayne, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Dawson consented to the described sanction and to the entry of findings that he failed to respond to repeated FINRA requests to appear for an on-the-record interview, and failed to provide documents regarding a customer complaint alleging unsuitable recommendations, unauthorized transactions and forgery. The findings stated that Dawson's counsel informed FINRA that Dawson understood and acknowledged the implications of not complying with FINRA Rule 8210 requests. ([FINRA Case #2010023712601](#))

Paul Christian DeRusso (CRD #2765646, Registered Principal, Mount Vernon, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for 90 days. Without admitting or denying the findings, DeRusso consented to the described sanctions and to the entry of findings that he deposited, via an automatic teller machine (ATM), checks he signed (made payable to his relatives) into his checking account that were drawn on the same checking account, and which were returned for insufficient funds. The findings stated that in some instances, such deposits temporarily inflated the account value and DeRusso used the inflated funds before the deposits were reversed due to the insufficient funds. Ultimately, such uses were covered by subsequent deposits. The findings also stated that DeRusso failed to timely amend his Form U4 to disclose material information.

The suspension is in effect from June 4, 2012, through September 1, 2012. ([FINRA Case #2010023716601](#))

Michael Laurence Digaetano (CRD #2378300, Registered Principal, West Lake Village, California) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any principal capacity for three months. Without admitting or denying the findings, Digaetano consented to the described sanctions and to the entry of findings that he failed to take appropriate action to reasonably supervise a registered representative to detect and prevent his violations,

including his willful violation of Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder. The findings stated that Digaetano, among other things, failed to take reasonable steps to follow up on certain indications of potential misconduct that should have alerted him to the registered representative's violations. Digaetano never contacted any of the customers who were the subject of the registered representative's mutual fund switch recommendations to verify whether he had disclosed to them the option of utilizing free exchanges or to determine whether they understood the costs associated with the mutual fund switch. The findings also stated that Digaetano never questioned the registered representative about his repeated pattern of mutual fund switching involving Class A shares or his identification of every trade as unsolicited. Digaetano never rejected any of the registered representative's mutual fund switches or advised him to consider less costly investment strategies for customers. The findings also included that Digaetano never placed the registered representative on heightened supervision or restricted his activity.

The suspension is in effect from June 18, 2012, through September 17, 2012. ([FINRA Case #2009019209202](#))

Marc Duda (CRD #2544960, Registered Representative, Fullerton, California) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Duda consented to the described sanction and to the entry of findings that he intentionally devised a scheme to defraud investors to obtain money through false representations and promises; Duda represented to investors, including elderly investors, that he would purchase securities on their behalf including bank certificates of deposit (CDs), secured note funds and lending investments. The findings stated that contrary to his representations, Duda did not invest any of the proceeds but used the money to fund other business ventures and for personal expenses. Duda liquidated stocks of one investor and used the proceeds for personal expenses. Duda wired \$15,000 of investor's funds from one account to another and used the money for personal expenses. The findings also stated that to conceal his fraudulent scheme, Duda used investors' funds to make payments to other investors without disclosing to later investors that their investments were being used to pay others. The findings also included that Duda failed to disclose to his member firm his affiliation with business activity outside the scope of the relationship with his firm. ([FINRA Case #2011028735701](#))

Donald Edmund Favata (CRD #2668999, Registered Representative, New York, New York) was fined \$5,000 and suspended from association with any FINRA member in any capacity for 90 days. The fine shall be due and payable when and if Favata seeks to re-enter the securities industry. The sanctions were based on findings that Favata was contacted by a former customer's legal guardian and was advised that the former customer and his relative needed an immediate \$40,000 lump sum withdrawal and then withdrawals of \$10,000 per month. The findings stated that when Favata called the company and

identified himself as the former customer, and used the former customer's personal information, including his birth date, address, personal identification number, and the last four digits of his Social Security number to authenticate himself as the former customer. Favata was not successful in processing the request for a withdrawal from the former customer's variable annuity. The findings also stated that Favata called the company with the former customer on the call and identified himself as a registered representative with his member firm. Favata told the company representative that he was calling as a friend of the former customer, not as his broker on the account. The former customer was able to answer the company's authentication questions and secured the requested withdrawals. The findings also included that the company advised Favata's firm that it suspected that he had impersonated the former customer on the calls he made. The firm investigated the allegation and Favata ultimately admitted that he had impersonated the former customer. Favata also provided FINRA with a written statement in which he admitted that he impersonated the former customer in an attempt to effect the requested withdrawals from the former customer's variable annuity contract.

The suspension is in effect from May 21, 2012, through August 19, 2012. ([FINRA Case #2011027116201](#))

Michael Robert Fetsko (CRD #4189305, Registered Representative, Boardman, Ohio) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 10 business days. The fine must be paid either immediately upon Fetsko'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, Fetsko consented to the described sanctions and to the entry of findings that he wrote and delivered a \$13,870 check to a customer to settle a dispute regarding a margin balance in the customer's account. Fetsko wrote and delivered a second check in the amount of \$1,429 to the customer to settle a similar dispute regarding a margin balance in another account, over which the customer had power of attorney. Fetsko deposited \$2,450 directly into a third customer's account after he became aware of a potential dispute regarding a promised dividend from an investment in the account. The findings also stated that Fetsko failed to inform his firm about the customer complaints or potential disputes, and failed to inform the firm about the payments to settle the described issues.

The suspension was in effect from May 21, 2012, through June 4, 2012. ([FINRA Case #2010023219601](#))

Sean D. Fitzgerald (CRD #5465012, Registered Representative, Milford, Connecticut) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Fitzgerald misappropriated a total of \$51,873.75 from customers' bank accounts. The findings stated that the bank, an affiliate bank of Fitzgerald's member firm, received a complaint from a customer regarding numerous cash withdrawals made with

a temporary ATM card, which the customer claimed she had not requested. The bank identified Fitzgerald as the person who made the withdrawals using the card issued for the customer's account. The findings also stated that Fitzgerald admitted that he had misappropriated funds from the customer's account using an ATM card linked to the customer's bank account to make cash withdrawals from that account, as well as purchases at various retail stores. Fitzgerald also submitted a written statement in which he admitted taking \$33,102.50 from the customer's bank account. The findings also included that the bank discovered that Fitzgerald misappropriated funds from several other bank customers by, in each case, obtaining a temporary ATM card and then making cash withdrawals against the accounts. Fitzgerald did not have permission or authority from the bank or the customers to issue ATM cards for these accounts or to withdraw funds from the accounts for his own use. Fitzgerald misappropriated a total of \$18,771.25 from these customers. FINRA found that the bank terminated Fitzgerald's employment and later reimbursed the customers in full. FINRA also found that Fitzgerald failed to respond to FINRA requests for information. ([FINRA Case #2010024240901](#))

Steven Patrick Ford (CRD #1444439, Registered Principal, Summit, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$20,000, suspended from association with any FINRA member in any capacity for 90 days, and required to requalify by examination for the Series 24 license before again acting in a principal capacity. Without admitting or denying the findings, Ford consented to the described sanctions and to the entry of findings that he improperly used customer information. The findings stated that Ford directed his unregistered assistant to establish login identifications and passwords to third-party vendor platforms for customers, and used those credentials to execute transactions at the customers' request. Ford maintained the confidential customer login and password information in his customer files. The findings also stated that Ford made a negligent misrepresentation in a communication to a FINRA-registered firm. At the request of Ford's customer, Ford inaccurately stated that he fully managed the customer's accounts as the advisor, and that the customer did not have discretion over the accounts. In fact, Ford did not have discretionary authority and the customer was free to execute transactions for the accounts. The findings also included that Ford negligently created and used misleading account summaries for his customers. Ford directed his unregistered assistant to generate summary reports for several clients. The values of certain securities set forth in these summaries were not fully accurate or explained. Certain reports showed inflated mutual fund values because they reflected stale prices; certain reports described the cash value of policies, but did not indicate whether the figure represented was a net surrender value. In addition, the reports did not utilize a firm-approved format or contain regulatory disclosures. The reports were not submitted for review to the firm as outgoing correspondence. FINRA found that Ford maintained several pre-signed client forms in his files but did not submit any transactions using these forms without client approval.

The suspension is in effect from June 4, 2012, through September 1, 2012. ([FINRA Case #2009020662201](#))

Leonard Voris Fox Jr. (CRD #1034449, Registered Representative, Marlton, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$2,500 and suspended from association with any FINRA member in any capacity for 10 business days. Without admitting or denying the findings, Fox consented to the described sanctions and to the entry of findings that he failed to inform his member firm of a loan with a customer or otherwise obtain its permission. The findings stated that the firm's WSPs expressly prohibited its representatives from borrowing money from customers. The findings also stated that Fox entered into a lending arrangement with the customer, borrowed \$10,000 and repaid the loan in full, including interest. Fox used the funds for personal expenditures, including costs associated with a former business venture he had with the customer.

The suspension was in effect from June 18, 2012, through June 29, 2012. ([FINRA Case #2009020913601](#))

Jonathan David Frank (CRD #5628160, Registered Representative, Alexandria, 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 Frank'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, Frank consented to the described sanctions and to the entry of findings that he transposed customer signatures on documents without the customers' authorization or consent. The findings stated that Frank submitted applications to an insurance company affiliated with his member firm to purchase insurance products for customers. Each customer had signed all but one or two of the documents relating to those purchases, leaving unsigned documents, including a personal history questionnaire, two bodily fluid testing forms and a policy delivery acknowledgment form. The findings also stated that on each of the unsigned documents, Frank, without customer authorization or consent, copied the respective customer's signature from a properly executed document and placed it on the form. Frank then submitted those documents, along with the rest of the applications, to the affiliated insurance company.

The suspension is in effect from May 21, 2012, through August 20, 2012. ([FINRA Case #2011029263101](#))

Jonathan Matthew Gellis (CRD #2329313, Registered Principal, Teaneck, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$25,000 and suspended from association with any FINRA member in any capacity for 20 business days. Without admitting or denying the findings, Gellis consented to the described sanctions and to the entry of findings that, using the instrumentalities of interstate commerce, he caused orders in customers' accounts to be executed, facilitated the distribution of approximately 1.6 billion shares of securities that were not properly registered, and failed to establish that these securities or transactions were exempt from registration. The findings stated that

Gellis failed to conduct adequate due diligence into the circumstances surrounding the customers' acquisition and sale of stock, notwithstanding significant red flags indicating the necessity of such inquiry.

The suspension is in effect from July 9, 2012, through August 3, 2012. ([FINRA Case #2008016061802](#))

Arthur Anthony Gerome (CRD #804891, Registered Representative, Oak Park, California) submitted an Offer of Settlement in which he was suspended from association with any FINRA member in any capacity for four months. In light of Gerome's financial status, no monetary sanctions have been imposed. Without admitting or denying the allegations, Gerome consented to the described sanction and to the entry of findings that he willfully failed to disclose material information and to update his Form U4 with material information regarding tax liens.

The suspension is in effect from June 4, 2012, through October 3, 2012. ([FINRA Case #2010024503101](#))

Daniel Wayne Haglin (CRD #1198481, Registered Representative, Alexandria, Minnesota) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for six months. In imposing the suspension, FINRA gave Haglin credit for serving a suspension his firm imposed during its investigation of his outside business activities. Without admitting or denying the findings, Haglin consented to the described sanctions and to the entry of findings that he failed to disclose his outside business activities to his member firm in accordance with the firm's WSPs. The findings stated that Haglin earned approximately \$27,700 for preparing income tax returns for firm customers and others, while associated with two member firms, and earned \$5,500 from the sale of computer software applications pertaining to financial services through a corporation he formed. After the corporation ceased selling software, Haglin maintained the corporate form for the entity, but failed to disclose that to the firm. The findings also stated that Haglin attempted to conceal his tax-preparation activities from his firm by directing his tax-preparation customers to contact him at a non-firm email address, and using a code word to schedule appointments with tax preparation customers on his firm's scheduling system. The findings also included that during the firm's investigation regarding Haglin's tax-preparation activities, he responded in the negative when his supervisor asked him whether he was preparing tax returns. FINRA found that Haglin submitted annual Outside Business Activities attestations for seven years in which he did not disclose his tax-preparation services or his ownership interest in his corporation.

The suspension is in effect from June 4, 2012, through December 3, 2012. ([FINRA Case #2010023597601](#))

Harrison A. Hatzis (CRD #2640978, Registered Principal, Hallandale, Florida) was fined \$30,000 and suspended from association with any FINRA member in any capacity for two years. The NAC imposed the sanctions following appeal of an Office of Hearing Officers decision. The sanctions were based on findings that Hatzis provided incomplete and inaccurate information concerning his member firm's application for FINRA membership and misled FINRA staff. The findings stated that the firm failed to accurately, completely and timely disclose the source and nature of its initial funding and ownership. When the firm applied for FINRA membership, the firm incorrectly stated that Hatzis, the firm's president, funded the firm, and it failed to disclose an individual's monetary contribution. The firm's membership application and Application for Broker-Dealer Registration (Form BD) also inaccurately indicated that Hatzis solely owned the firm, when in fact an entity was the firm's sole, direct owner. The findings also stated that the firm ultimately disclosed the individual's financing of the firm and clarified the entity's ownership role, but did so only after providing a series of confusing and misleading responses to several FINRA requests for information. The findings also included that the firm misled FINRA concerning a \$250,000 payment under an Investment Agreement and sought to shield the investment agreement from regulatory review. By the date the firm applied for FINRA membership, Hatzis and representatives of another firm had negotiated the principal terms of the investment agreement, reduced them to writing and later executed the investment agreement. The firm never disclosed to, or discussed with, FINRA the terms of these final or proposed contracts.

FINRA found that the firm's obligation to forego \$285,000 in net commissions otherwise due from another firm alone affected a significant aspect of the firm's financing and revenues, and raised considerable questions concerning the firm's ability to maintain adequate net capital. Nonetheless, the firm never disclosed these key terms to FINRA. FINRA specifically requested that the firm provide a detailed description of the \$250,000 payment to the other firm, and rather than divulge the investment agreement to FINRA, the firm falsely stated that the \$250,000 represented service fees pursuant to a service agreement and, to support this claim, provided a back-dated service agreement, which deceptively omitted any reference to a loan and otherwise whitewashed the firm's obligation to repay it by foregoing commissions. FINRA also found that Hatzis should have, but did not, amend the firm's membership application to ensure it was complete and contained accurate information.

Although Hatzis appealed the NAC's decision to the SEC, he later withdrew his appeal and the SEC dismissed his application for review. The NAC's decision therefore constitutes final action in this matter. The suspension is in effect from June 4, 2012, through June 3, 2014. ([FINRA Case #2006005178801](#))

Masaharu Blair Hoashi (CRD #2521923, Registered Representative, Honolulu, Hawaii) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for two months.

Without admitting or denying the findings, Hoashi consented to the described sanctions and to the entry of findings that he instructed his assistant to affix customers' signatures onto an account transfer form and submitted the form to his member firm for processing, without the customers' knowledge, authorization or consent. The findings stated that Hoashi maintained securities accounts at other member firms and failed to provide prompt written notification to his member firm and to the other firms about his association with the other firms.

The suspension is in effect from June 18, 2012, through August 17, 2012. ([FINRA Case #2010022245501](#))

Scott B. Hostutler (CRD #4796651, Registered Representative, Oakland, New Jersey) 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 Hostutler'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, Hostutler consented to the described sanctions and to the entry of findings that he exercised discretion in a customer's account without obtaining the customer's written authorization or his member firm's acceptance of the account as discretionary. The findings stated that at that time, Hostutler's firm prohibited discretionary trading in these types of customer accounts.

The suspension was in effect from May 7, 2012, through May 18, 2012. ([FINRA Case #2010022775401](#))

Byron Elliott Ingraham (CRD #5425474, Registered Representative, Plano, Texas) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Ingraham'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, Ingraham consented to the described sanctions and to the entry of findings that he altered information in a customer's annuity disclosure and suitability form to indicate that 10 percent of principal could be withdrawn from a replacement annuity each year without incurring penalties. The findings stated that Ingraham did not obtain the customer's signature or initials to show she concurred, although Ingraham had reviewed this feature of the contract with the customer when she signed the original form and she understood this feature of the annuity contract. The findings also stated that Ingraham failed to provide a timely response to FINRA Rule 8210 requests for information.

The suspension is in effect from May 7, 2012, through November 6, 2012. ([FINRA Case #2011028336501](#))

David Alexander Kennedy (CRD #5053081, Registered Representative, Shreveport, Louisiana) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Kennedy improperly received assistance on the Firm Element continuing education proficiency tests from an operations manager at his member firm. The operations manager gave Kennedy answers to the questions on the proficiency tests, which he used to complete them. The findings stated that Kennedy printed out answer sheets for the tests and gave the answers to another registered representative to use while taking the same tests. ([FINRA Case #2009019276105](#))

Robert Joseph Kennedy III (CRD #1319572, Registered Representative, Plainview, New York) submitted an Offer of Settlement in which he was fined \$5,000, suspended from association with any FINRA member in any capacity for two months, and required to requalify by examination as a General Securities Representative (GSR) within 60 days of re-entry following the suspension. Without admitting or denying the allegations, Kennedy consented to the described sanctions and to the entry of findings that he falsified deferred equity-indexed and fixed annuity sales applications for firm customers by recording, or causing to be recorded, inaccurate locations of the states where the customers executed the signatures on the sales applications. The findings stated that in each instance, the state in which the application was purportedly signed is listed as New Jersey on the sales applications, although the signatures were actually executed in New York. The annuities Kennedy sold to the customers were not authorized for sale by the State of New York. The annuities could be sold to New York residents provided that the sale was executed, as evidenced by the customer's signature, outside the State of New York. The findings also stated that all of the sales occurred in New York, but Kennedy, knowing that the applications had been signed in New York, entered New Jersey on the applications as the state of execution in order to complete the sales.

The suspension is in effect from June 4, 2012, through August 3, 2012. ([FINRA Case #2009019069101](#))

Charles Edward Krsek (CRD #1736245, Registered Principal, Ocala, Florida) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$7,500 and suspended from association with any FINRA member in any capacity for 10 business days. Without admitting or denying the findings, Krsek consented to the described sanctions and to the entry of findings that he opened a trust brokerage account for an elderly customer at the request of a firm registered representative who did not have a Series 7 license and was not permitted to handle securities accounts other than variable annuities accounts. The findings stated that Krsek submitted the application for approval and became the assigned registered representative, but never monitored the account activity. The findings also stated that the registered representative asked Krsek to open another account for the customer; the account application included the representative as a joint account holder. Krsek did not prepare the account application and did not recall if he reviewed it or any documentation prior to opening the account. Krsek mistakenly believed that the customer

was related to the representative and failed to notice that the section of the application that questioned whether any relatives of the customer worked at the firm was marked “no” despite the representative being a joint account holder with the customer. The findings also included that the opening of the account and permitting it to remain open for more than four years caused a violation of firm policies and procedures as well as NASD Rule 2330(f) and FINRA Rule 2150(c) because the registered representative at the firm was not permitted to share directly or indirectly in profits or losses in a customer’s account. The firm had written policies and procedures regarding sharing of joint brokerage accounts by firm customers and its financial representatives that specifically prohibited sharing directly or indirectly in profits or losses in an individual’s account.

The suspension was in effect from June 18, 2012, through June 29, 2012. ([FINRA Case #2010021224803](#))

Rochelle Anne Leininger (CRD #2838275, Registered Representative, Danville, California) submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity for 90 days. The fine must be paid either immediately upon Leininger’s reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Leininger consented to the described sanctions and to the entry of findings that while registered with her member firm, Leininger was a notary public when a former colleague of Leininger’s who was registered with another FINRA member firm, presented documents to her and asked her to notarize his customers’ signatures on the documents. The documents were requests for loans from the customers’ life insurance policies that purportedly had been signed by the customers, whom Leininger knew. The customers were not present at the time Leininger notarized the documents. In reality, unbeknownst to Leininger, her former colleague forged the customers’ signatures on the documents. The findings stated that Leininger notarized the documents by affixing to each a California All Purpose Acknowledgement form that attested to the veracity of the signatures, and faxed the notarized documents to the insurance company. The company processed the loan requests against the customers’ insurance policies and sent the borrowed funds to the former colleague, who misappropriated the money. The customers were unaware that the loans had been taken out against their life insurance policies.

The suspension is in effect from June 4, 2012, through September 1, 2012. ([FINRA Case #2010024175201](#))

David Edward Livingston (CRD #2035043, Registered Representative, Birmingham, Alabama) 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 eight months. The fine must be paid either immediately upon Livingston’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, Livingston consented to the described sanctions and to the entry of findings that he forged customers' signatures on documents in connection with mutual fund transactions and IRA distribution requests. The findings stated that Livingston failed to obtain required customer signatures on the documents, and when his member firm requested copies of the signed documents, rather than contacting the customers, he placed their signatures on the documents himself, contrary to his firm's WSPs prohibiting signing another individual's name on any document affecting a client's account or any firm record. The findings also stated that although the customers authorized the transactions associated with the forged documents, the customers had not provided Livingston with permission to sign their names. The findings also included that Livingston exercised discretion in customers' retail brokerage accounts without the customers' written authorization and his firm's acceptance of the accounts as discretionary. Livingston's firm does not permit discretionary brokerage accounts. On multiple compliance questionnaires completed over three years, Livingston inaccurately represented that he did not exercise discretionary authority over any accounts. FINRA found that after being notified of a customer's death by his widow, Livingston made trades in the deceased's advisory fee account on the widow's behalf, contrary to his firm's WSPs that provide that upon receiving notification of a customer's death, transactions in the customer's account must immediately cease and discretionary trading authorizations given by the customer terminate immediately. Livingston did not have authority to trade in the deceased's account after his death.

The suspension is in effect from June 4, 2012, through February 3, 2013. ([FINRA Case #2011026821301](#))

Howard Ming Liu (CRD #3234448, Registered Principal, Jersey City, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$7,500 and suspended from association with any FINRA member in any capacity for 90 days. The fine must be paid either immediately upon Liu'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, Liu consented to the described sanctions and to the entry of findings that he made negligent material misrepresentations of fact in connection with the sale of a variable life insurance policy to customers. The findings stated that a customer purchased Liu's firm's flexible premium variable life insurance policy based, in part, on Liu's representation that the customer was permitted to withdraw funds exceeding the annual policy premium without fees, and the customer could short stocks and purchase precious metals. Contrary to Liu's negligent misrepresentations, withdrawals of funds exceeding the annual policy premium were subject to surrender charges, the firm had discretion to decline any withdrawal request, and the customer was not permitted to short stocks or purchase precious metals. The findings also stated that while soliciting another firm customer, Liu sent him an email containing inaccurate statements concerning his business background. Liu admitted sending similar communications to other prospective customers.

The suspension is in effect from June 4, 2012, through September 1, 2012. ([FINRA Case #2009017992401](#))

Jordan Lawrence Loewer (CRD #709168, Registered Principal, Walnut Creek, California) submitted an Offer of Settlement in which he was suspended from association with any FINRA member in any principal capacity for 30 business days. In light of Loewer's financial status, no monetary sanctions have been imposed. Without admitting or denying the allegations, Loewer consented to the described sanction and to the entry of findings that he was the principal of his member firm responsible for the firm's compliance with laws, rules and regulations related to the businesses in which the firm engaged. The findings stated that Loewer neglected to cause the firm to make penny stock disclosures in connection with the transactions of the firm's registered representatives. The findings also stated that Loewer did not establish, maintain and enforce a supervisory system or WSPs reasonably designed to achieve his firm's compliance with applicable laws, rules and regulations in the conduct of its penny stock business. The findings also included that Loewer was responsible for the establishment, maintenance and enforcement of the firm's supervisory control procedures for testing and verifying the adequacy of the firm's supervisory systems and procedures, and for creating or amending such systems and procedures to address needs identified through testing and verification. Loewer was also responsible for preparing an annual report to senior management required by NASD Rule 3012. FINRA found that Loewer prepared a report that did not summarize the test results, identify exceptions or discuss any additions or revisions to the firm's supervisory procedures based upon deficiencies noted in the test.

The suspension is in effect from June 4, 2012, through July 16, 2012. ([FINRA Case #2008011597001](#))

Peter J. London (CRD #4735468, Registered Representative, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, London consented to the described sanction and to the entry of findings that he failed to respond to a FINRA request for information and documents in connection with an investigation into alleged misconduct with respect to certain outside business activities and the sale of purported private placement offerings. ([FINRA Case #2011029931401](#))

Edward Allen Mantanona (CRD #4455860, Registered Representative, Salado, Texas) was barred from association with any FINRA member in any capacity and ordered to pay \$60,000, plus interest, in restitution to a customer. The sanctions were based on findings that Mantanona borrowed a total of \$90,000 from a customer without his member firm's prior written approval and in violation of the firm's written procedures that prohibited such loans. The findings stated that the first loan for \$30,000 was repaid, but Mantanona failed to repay a \$60,000 loan as required by a promissory note. The findings also stated that Mantanona falsely represented on the firm's annual questionnaires that he had

not received loans from customers. The findings also included that Mantanona failed to respond to FINRA requests for information. ([FINRA Case #2009021067101](#))

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. Marshall withdrew his appeal to the NAC. 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 the firm's compliance department's prior approval. The findings stated that Marshall failed to timely respond to FINRA requests for information and documents.

The suspension is in effect from June 4, 2012, through July 16, 2012. ([FINRA Case #2008014285801](#))

Myrron Marcos Martinez (CRD #4369254, Registered Representative, Sarasota, Florida) submitted an 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 Martinez'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, Martinez consented to the described sanctions and to the entry of findings that he participated in an outside business activity without providing his member firm with prior written notice. The findings stated that Martinez recommended that a firm customer invest in a company and a business venture that Martinez's friends owned, hoping to become their financial adviser and earn commissions in the future in the event their businesses became successful. The findings also stated that the customer invested \$240,000 total in promissory notes Martinez's friends issued. To facilitate the transactions, Martinez delivered the \$240,000 to his friends and witnessed their signatures on the promissory notes. Martinez's friends did not repay the customer any portion of the \$240,000 investment in the promissory notes. The findings also included that Martinez used his personal email account to send emails to the customer to promote one of the above-mentioned investments, knowing that the firm's procedures required him to use his firm email account for all business communications with clients, circumventing his firm's supervisory procedures.

The suspension is in effect from June 4, 2012, through October 3, 2012. ([FINRA Case #2010024888001](#))

Scott Lee Mathis (CRD #1362203, Registered Principal, New York, New York) was suspended from association with any FINRA member in any capacity for three months. The U.S. Court of Appeals denied Mathis' petition for review and affirmed the SEC decision affirming the NAC decision. The findings stated that Mathis willfully failed to disclose material information on his Forms U4.

The suspension is in effect from June 4, 2012, through September 3, 2012. ([FINRA Case #C1020040052](#))

Craig Lamont Miller (CRD #1184029, Registered Representative, Austin, Texas) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Miller'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, Miller consented to the described sanctions and to the entry of findings that he recommended that a customer invest \$100,000 in an oil and gas well joint venture. In connection with the customer's investment, Miller received an interest in the joint venture valued at \$12,500. The findings stated that these activities were outside the scope of Miller's relationship with his firm, and Miller did not provide prompt written notice to his firm of these activities.

The suspension is in effect from June 4, 2012, through December 3, 2012. ([FINRA Case #2010024183801](#))

Rocco Anthony Mongelli (CRD #2746703, Registered Representative, Hillsdale, New Jersey) 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 nine months. The fine must be paid either immediately upon Mongelli'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, Mongelli consented to the described sanctions and to the entry of findings that he failed to conduct a reasonable inquiry into the circumstances surrounding his customers' ownership and sales of large blocks of penny stocks, and knew, or should have known, that a group of his customers was acting in concert to engage in unregistered distributions of securities in violation of Section 5 of the Securities Act of 1933. Over approximately two months, Mongelli, acting as broker, opened customer accounts for individuals and entities, and remained broker of record for those accounts throughout his tenure at his member firm. While each of the accounts claimed to be unaffiliated and independent of one another, they were not. The findings also stated that the new account documents, due diligence paperwork and the email instructions from the persons behind the accounts demonstrated that several of the accounts shared addresses, phone numbers, the same email domain name, worked together on behalf of penny stock issuers, and acted together to liquidate the same securities from their accounts at his firm. The most active accounts often received large blocks of the same stocks into their respective accounts at or around the same time, and received the stocks from the same sources and in the same manner. The findings also included that Mongelli knew, or should have known, from the information available to him that the accounts were acting together and that their ownership of securities should have been aggregated. In several instances, a customer would attempt to direct the sales out of another account, and in at least one instance sought to time the liquidations of a single stock from multiple accounts.

FINRA found that rather than functioning as separate, stand-alone accounts, the accountholders acted in concert to sell billions of shares of unregistered, restricted microcap stock into the market, effectively functioning as control persons and underwriters for the issuers involved, thus prohibiting them from relying on the Rule 144 of the Securities Act safe harbor for the resale of restricted securities. None of these transactions had a valid exemption from the registration requirement under Section 5 of the Securities Act of 1933. FINRA also found that Mongelli facilitated the sale of more than 2.8 billion shares of different penny stock issuers, from firm accounts into the public markets. No registration statements were in effect for any of the shares sold from the accounts. The stocks were traded over the counter and quoted on the Pink Sheets. The sales of these stocks generated more than \$1.1 million in proceeds. In addition, FINRA determined that Mongelli had direct and continual contact with the persons behind the accounts. Some of the accounts were among Mongelli's most active accounts while he was at his firm. Mongelli knew, or should have known, that the accounts were acting together, with a view to distribution of unregistered securities, and that their method of acquiring shares and the quantity of shares owned at the time of deposit and liquidation prohibited any reliance on the Rule 144 safe harbor for the resale of restricted securities.

The suspension is in effect from June 4, 2012, through March 3, 2013. ([FINRA Case #2011027961201](#))

Robert Neri (CRD #5447108, Associated Person, New Port Richey, Florida) submitted an Offer of Settlement in which he was suspended from association with any FINRA member in any capacity for six months. In light of Neri's financial status, no monetary sanctions have been imposed. Without admitting or denying the allegations, Neri consented to the described sanction and to the entry of findings that he failed to timely cooperate with a FINRA investigation.

The suspension is in effect from June 18, 2012, through December 17, 2012. ([FINRA Case #2010021972802](#))

James A. Owen (CRD #5191404, Registered Representative, Easton, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$15,000, suspended from association with any FINRA member in any capacity for two years and ordered to pay \$313,981, plus interest, in restitution to customers. The fine and restitution amounts must be paid either immediately upon Owen'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, Owen consented to the described sanctions and to the entry of findings that he arranged for customers at his firm to open accounts at online trading brokerage firms. The findings stated that the customers gave Owen permission to trade in the accounts in the hopes of generating returns to help fund their retirements. Owen hoped the customers would use some of the proceeds from the options trading to buy insurance products through him, from which he would earn commissions. Some of the

customers set up automated withdrawals from their options trading accounts to fund the purchase of insurance products through Owen. Some customers borrowed money from their 401(k) plans to participate in Owen's trading. The findings also stated that each of the customers verbally authorized Owen to exercise trading discretion in their accounts, but did not do so in writing. The customers had a very limited understanding of the risks of options or of Owen's trading strategies. Owen and his customers provided false information about their investment experience on the new account applications they used to open the accounts. Owen did not disclose his trading in these accounts to his firm until a later date, and never disclosed where the accounts were maintained that the trading in the accounts was being conducted by a person registered at another firm. The findings also included that Owen's trading was initially successful, but he incurred significant losses in the customers' accounts and ceased trading shortly thereafter. Owen's customers lost money, ranging from approximately \$2,850 to \$65,300. The total losses in the customer accounts were almost \$314,000; an average of 42 percent of the amounts invested.

FINRA found that Owen recommended options transactions that exceeded his customers' risk tolerance, recommended options transactions without fully understanding the potential risks and failed to fully apprise his customers of those risks. Owen falsified or assisted in the falsification of the new account information on the customer account applications; failed to disclose his involvement with the online accounts to his firm, failed to disclose his status as an associated person to the online trading firms in connection with the customers' accounts and exercised discretionary authority over his customers' on-line trading accounts without written authorization.

The suspension is in effect from June 4, 2012, through June 3, 2014. ([FINRA Case #2010023975301](#))

William Scott Paladini (CRD #4561071, Registered Representative, New York, New York) submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Paladini consented to the described sanction and to the entry of findings that he knowingly possessed or used material, non-public information to purchase securities, which also violated his member firm's policies. The findings stated that Paladini had a duty arising out of a relationship of trust and confidence to his firm, to an individual and to the individual's investment bank to keep the information confidential and not trade on it, which he breached by purchasing the securities. Paladini acted with scienter by trading on the material, non-public information when he either knew, or was reckless in not knowing, that he was doing so in breach of a duty to keep the information confidential and not to trade on it. The findings also stated that Paladini violated his firm's insider trading policies and procedures by trading in a security while in possession of material, non-public information. The findings also included that employees were to contact the firm's Legal and Compliance Department for guidance if they had any doubts as to whether information they possessed was material or non-

public. FINRA found that the firm's policies and procedures stated that, except as expressly advised, employees may not buy or sell for any account a security (or derivative) to which such information relates. ([FINRA Case #2010022547001](#))

Harold Edward Parker Jr. (CRD #1001439, Registered Representative, Lima, Ohio) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000, suspended from association with any FINRA member in any capacity for two months, and ordered to pay \$17,400, plus interest, in restitution. The fine and restitution amounts must be paid either immediately upon Parker'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, Parker consented to the described sanctions and to the entry of findings that he borrowed \$20,000 from a family friend who was a member firm customer, and failed to repay the loan in full. A representative of the customer's estate filed a complaint with FINRA alleging that Parker received a loan that he failed to pay back in full; Parker had not repaid \$17,400 of the original \$20,000. The findings stated that Parker's firm's WSPs required written approval before an employee could borrow money from any customer, including a friend. The firm was not aware of any loans between Parker and the customer, and Parker did not obtain the firm's approval in writing before accepting the loan as firm procedures required. The findings also stated that Parker failed to timely amend his Form U4 to disclose a regulatory inquiry by Ohio's Department of Insurance.

The suspension is in effect from June 4, 2012, through August 3, 2012. ([FINRA Case #2010023882701](#))

Richard Peter Pascucci (CRD #4819805, Registered Representative, Hamburg, New York) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Pascucci converted to his own use a total of \$261,000 of customer funds. The findings stated that Pascucci obtained from the customers checks payable to him, falsely representing that he would invest the proceeds on their behalf. Instead, Pascucci spent the money for his own purposes. The findings also stated that the same misconduct was the subject of Pascucci's guilty plea in a wire fraud criminal proceeding. Pascucci was sentenced to 30 months in prison and ordered to pay the customers a total of \$261,000 in restitution. The findings also included that Pascucci failed to respond to FINRA requests for information and documents. ([FINRA Case #2010025751301](#))

Kevin Lee Patrick (CRD #1105342, Registered Representative, Avon, 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 six months. The fine must be paid either immediately upon Patrick'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, Patrick consented to the described sanctions and to the entry of findings that he wrote

applications for policies for customers to replace their existing policies; and as part of the applications, submitted forms in which he signed the customers' signatures. The findings stated that although the customers authorized the new policies, they did not specifically authorize Patrick to sign the documents on their behalf.

The suspension is in effect from June 4, 2012, through December 3, 2012. ([FINRA Case #2010024585401](#))

Ann Louise Gay Phelps (CRD #714437, Registered Principal, Aurora, Colorado) submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Phelps consented to the described sanction and to the entry of findings that she sent a letter to her member firm's registered representatives informing them that each representative was required to pay \$1,389 to the firm for the purchase of an Errors & Omissions (E&O) insurance policy. Shortly thereafter, Phelps began collecting money from the registered representatives by deducting \$1,389 from their commission accounts or by obtaining checks from them made payable to the firm. All of the money Phelps collected was deposited into the firm's operating account and commingled with other funds of the firm. Phelps had control over the firm operating account and, therefore, over the money she collected from the registered representatives. The findings stated that Phelps collected a total of \$33,336 from representatives at her firm but did not use the money she collected toward the premium on an E&O policy; instead, she used the money for both firm and personal expenses. The findings also stated that Phelps sent false and misleading letters to registered representatives in response to their requests for proof of individual E&O coverage, which they needed in connection with their selling arrangements with certain insurance carriers. Phelps provided documents to the firm's registered representatives that falsely represented that they had E&O coverage through the firm when, in fact, no E&O policy was in effect at the time. The findings also included that the firm subsequently returned the funds to the registered representatives. ([FINRA Case #2010023780201](#))

Randall Lane Pope (CRD #1469681, Registered Representative, Fort Collins, Colorado) 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, Pope consented to the described sanction and to the entry of findings that he failed to respond to FINRA requests for information and documents regarding alleged misrepresentation, omissions and unsuitability of private placements and point-of-sale practices with respect to certain customers. ([FINRA Case #2009019027701](#))

James Arnold Potter (CRD #1240900, Registered Principal, Apple Valley, Minnesota) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any principal capacity for 20 business days. Without admitting or denying the findings, Potter consented to the described sanctions and to the entry of findings that, while serving as his member firm's

CCO, Potter was responsible for supervising a registered representative who engaged in excessive trading in customers' accounts. The findings stated that Potter failed to respond appropriately to red flags, including reports, and other information showing high turnover rates and cost-to-equity ratios. Potter failed to take any measures to prevent or limit the representative's excessive trading in the customers' accounts. The findings also stated that Potter's heightened supervision of the representative included quarterly letters sent to a sampling of the representative's customers, frequent discussions with him about his customers and his personal financial situation, and a heightened review of his correspondence. The findings also included that Potter reviewed and approved all of the transactions that the representative entered for his clients. Potter reviewed daily trade blotters showing those transactions and also received monthly Active Account Reports showing accounts the representative serviced, in which trading activity exceeded one or more parameters. Potter never contacted any of the customers to discuss particular trades in their accounts, the frequency of trading or the commissions that were charged to their accounts. Potter also never disapproved any of the trades the representative entered on behalf of any of the customers.

FINRA found that in Potter's quarterly letters sent to the representative's customers, he did not ask customers about particular transactions or trading patterns. Potter instead asked the customers to contact him if they had any questions or concerns regarding their accounts. Other than sending these letters, Potter did not contact any of the representative's customers for a full year. In addition, FINRA determined that the turnover and cost-to-equity figures Potter received monthly were red flags for excessive trading, and even after learning that the representative had been the subject of an excessive-trading complaint at another broker-dealer, more searching inquiries and corrective action were necessary, but Potter failed to respond adequately and preventable customer harm followed.

The suspension was in effect from June 4, 2012, through June 29, 2012. ([FINRA Case #2010020803401](#))

Jeffrey Bryan Pulaski (CRD #5341687, Registered Representative, Lakewood, New Jersey) 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 Pulaski'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, Pulaski consented to the described sanctions and to the entry of findings that he failed to promptly update his Form U4 to disclose felony charges.

The suspension was in effect from May 21, 2012, through June 19, 2012. ([FINRA Case #2011029538801](#))

George Edwin Rall Jr. (CRD #1170826, Registered Principal, Marietta, Georgia) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 10 business days. Without admitting or denying the findings, Rall consented to the described sanctions and to the entry of findings that he exercised discretion in customers' accounts. The findings stated that some of the customers verbally authorized Rall to make trades in their accounts without requiring him to contact them on the same day of the trade. Other customers authorized Rall to follow an agreed-upon investment strategy, but he did not always effect the trades on the same day as his discussion with the customers. The findings also stated that none of the customers had provided written authorization to Rall to exercise such discretion, and he did not have his member firm's prior written acceptance of any discretionary account.

The suspension was in effect from June 4, 2012, through June 15, 2012. ([FINRA Case #2009020031501](#))

C. Walter Ries (CRD #846279, Registered Representative, Webster, 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, Ries consented to the described sanction and to the entry of findings that he failed to fully respond to FINRA requests for information and documents for potential unsuitable recommendations to customers, including bank statements and canceled checks for his personal bank account and for an account that he controlled in the name of a commercial property. ([FINRA Case #2009016149701](#))

Richard Michael Rodriguez (CRD #4835035, Registered Representative, Bronx, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Rodriguez'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, Rodriguez consented to the described sanctions and to the entry of findings that he recommended that individuals invest in promissory notes through a tax preparation and real estate company where he was employed without first obtaining his member firm's written approval before recommending the purchase of the promissory notes to the individuals. The findings stated that the individuals were Rodriguez's relatives but were not customers of his' firm. Both individuals purchased the promissory notes for a total of approximately \$47,000 from the company, away from Rodriguez's firm. Rodriguez did not receive any compensation for recommending the promissory notes to the individuals. The findings also stated that Rodriguez agreed to pay the owner of the company, a non-registered person, an override on any and all firm commissions Rodriguez received that exceeded his \$1,800 weekly salary at the company. Pursuant to his agreement with the owner, Rodriguez shared \$57,582.10 in commissions with the owner.

The suspension is in effect from June 4, 2012, through September 3, 2012. ([FINRA Case #2011028403201](#))

Thomas Martin Rosen (CRD #3004374, Registered Representative, Glen Ridge, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Rosen consented to the described sanction and to the entry of findings that he converted to his own personal use a total of more than \$789,000 in cash from a customer account maintained at the non-FINRA member bank affiliate of his member firm that Rosen serviced. The findings stated that to convert the customer's funds, Rosen effectuated, without the customer's knowledge, unauthorized wire transfers from, and checks drawn off, the customer's bank account to a business entity Rosen initially had formed to manufacture fire safety masks. Rosen then used the customer's misappropriated funds to pay his business and other personal expenses. ([FINRA Case #2011030578001](#))

Bonny Jean Shaver (CRD #5171356, Registered Representative, Antioch, California) submitted a Letter of Acceptance, Waiver and consent in which she was suspended from association with any FINRA member in any capacity for three months. In light of Shaver's financial status, no monetary sanctions have been imposed. Without admitting or denying the findings, Shaver consented to the described sanction and to the entry of findings that she engaged in private securities transactions by investing in promissory notes with a private company that her member firm had not approved as an investment. Shaver's firm's policies and procedures specifically prohibited its registered representatives from participating in any securities transactions outside the scope of their employment with the firm without providing prior written notice to, and receiving prior written approval from, the firm. Shaver never gave the firm written notice about her participation in either transaction. The findings stated that Shaver lost her entire investment and never received any interest or the \$4,000 fee the Chief Executive Officer (CEO) of the company promised. The findings also stated that Shaver worked in an unapproved outside business activity when she began working as a non-securities-related banking representative at a bank without requesting or receiving her firm's permission.

The suspension is in effect from May 21, 2012, through August 20, 2012. ([FINRA Case #2010024229702](#))

Craig Aloysius Shermoen (CRD #1868366, Registered Representative, Chandler, Arizona) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for seven months. The fine must be paid either immediately upon Shermoen'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, Shermoen consented to the described sanctions and to the entry of findings that he engaged in outside businesses without providing prompt written notice to

his member firm. The findings stated that Shermoen acted as a loan officer for a company and owned a business to build rental properties. When Shermoen completed a firm compliance questionnaire, he answered “no” when asked if he was currently engaged in any outside activity either as a proprietor, partner, officer, director, trustee, employee, agent or otherwise.

The suspension is in effect from June 4, 2012, through January 3, 2013. ([FINRA Case #2010025352101](#))

Richard Shu (CRD #4356690, Registered Representative, Louisville, Kentucky) 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 eight months. Without admitting or denying the findings, Shu consented to the described sanctions and to the entry of findings that a customer gifted Shu and his family approximately \$1 million in cash and securities, and that he also received from the customer approximately \$300,000 for his use in his outside business activities. The findings stated that Shu failed to disclose his receipt of the gifts to his firm or seek the firm’s approval to receive the gifts. The findings also stated that Shu engaged in outside business activities that he did not disclose to his member firm. The findings also included that Shu made a verbal misstatement to the firm, and over a three-year period, several written misstatements in compliance questionnaires submitted to the firm. Specifically, Shu failed to disclose on firm compliance questionnaires that he had accepted approximately \$1.3 million in cash and securities from a customer; that he was the named beneficiary of the customer’s IRA and annuity policies; that he arranged, without disclosure to his firm, to receive at his home and a business address he controlled, all correspondence that the firm sent to the customer; and was receiving the customer’s mail at his home address—all of which were against firm policies. FINRA found that Shu told the firm that a business address he controlled was the address where the customer owned property, which the customer denied when the firm questioned him; and failed to disclose to the firm on its compliance questionnaire that he had been appointed power of attorney for the customer and failed to disclose his outside business activities.

The suspension is in effect from May 21, 2012, through January 20, 2013. ([FINRA Case #2010023634601](#))

Jeffrey Robert Simbric (CRD #4859279, Registered Representative, Camp Verde, Arizona) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Simbric fabricated a letter to customers making it appear that it came from a fixed-indexed annuity contract issuer and the customers would receive a 10 percent bonus on the first premium paid on the contracts. The findings stated that Simbric had previously sent the customers an out-of-date brochure about the contracts, which promised a bonus, but the bonus was no longer available. Rather than informing the customers that the company had declined to increase the bonus, Simbric made it appear, through a fabricated letter, that the customers would received the bonus. The

company did not have any knowledge of the fabricated letter. The findings also stated that the customers complained to Simbric's company. The CCO asked Simbric to reply to the customers and Simbric initially stated he did not know who sent the fabricated letter but later recanted and was terminated. The findings also included that Simbric failed to respond to FINRA requests to appear for an on-the-record interview. ([FINRA Case #2011026168901](#))

Andrey V. Tkatchenko (CRD #2712245, Registered Principal, Lincroft, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for 15 business days. Without admitting or denying the findings, Tkatchenko consented to the described sanctions and to the entry of findings that he caused the trade tickets and/or trade confirmations pertaining to more than two dozen transactions in a stock he effected on his customer's behalf to read unsolicited, when they should have read solicited. The findings stated that Tkatchenko's failure to accurately report these transactions prevented his member firm's compliance department from exercising proper supervision over them because it misled the firm into believing that the intention to execute these trades had originated with the customers. It also caused the firm to keep inaccurate records concerning these trades. The findings also stated that Tkatchenko caused his firm to create and maintain inaccurate books and records, and thus failed to observe high standards of commercial honor and just and equitable principles of trade.

The suspension was in effect from June 18, 2012, through July 9, 2012. ([FINRA Case #2008011743304](#))

Melvin J. Tsao (CRD #4083764, Registered Representative, Santa Monica, California) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Tsao consented to the described sanction and to the entry of findings that he failed to respond to FINRA requests for information and to appear and provide testimony regarding filing of proof of claim forms in securities class action lawsuits. The findings stated that Tsao's attorney reported to FINRA that Tsao would neither be producing documents nor appearing for testimony. ([FINRA Case #2010025140601](#))

Erik Alonso Vega (CRD #5849735, Registered Representative, Montebello, California) submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for seven months. The fine must be paid either immediately upon Vega'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, Vega consented to the described sanctions and to the entry of findings that he obtained a business license to engage in the wholesale car sales business without providing his

firm with any notice at all, including written notice, of his auto sales, and engaged in transactions involving more than \$48,000. Vega failed to respond to FINRA requests for information and documents until shortly after the complaint was filed.

The suspension is in effect from June 4, 2012, through January 3, 2013. ([FINRA Case #2011026004801](#))

Diana Villalvazo (CRD #4773728, Associated Person, Nogales, Arizona) was barred from association with any FINRA member in any capacity. The Hearing Officer did not order restitution because Villalvazo's plea agreement in connection with a case filed in the Superior Court of the State of Arizona required she reimburse the firm for the conversion, and the Hearing Officer presumed that the firm had reimbursed the customer. The sanction was based on findings that Villalvazo signed a customer's name to numerous letters of authorization (LOAs), causing her member firm to effect the unauthorized wire transfer of approximately \$167,249 from the customer's account to a bank account in the name of Villalvazo's relative. Villalvazo admitted to a firm registered representative that she had misappropriated the customer's funds by forging the customer's signature by tracing it on the LOAs. The findings stated that Villalvazo failed to respond to FINRA requests for information and to appear for an on-the-record interview. ([FINRA Case #2010021566901](#))

William Gregory Vincent (CRD #3007097, Registered Principal, Marietta, Georgia) was fined a total of \$30,000 and suspended from association with any FINRA member in any principal capacity for a total of two years. The fine is due and payable upon Vincent's return to the securities industry. The sanctions were based on findings that while Vincent served as his member firm's CCO, he allowed representatives to engage in securities business without being registered, and did not file a timely amendment to a Form U4 to report a disciplinary action and when he did so, the amendment was inaccurate and incomplete. The findings stated that Vincent did not establish or maintain a reasonable supervisory system that would ensure the filing accuracy and timely amendments to Forms U4, evidence the requisite reviews of electronic communications or would audit representatives' practices to gauge whether they forwarded electronic communications for timely review. The findings also stated that Vincent failed to enforce his firm's supervisory system and procedures to ensure that the firm established an escrow account for its contingent offering and returned investor funds to the proper customer when the offering failed to meet its contingency. The findings also included that Vincent, as CCO, failed to ensure the review and approval of advertising material and sales literature by a principal.

FINRA found that Vincent failed to file, and timely file, its annual Limited Size and Exception notifications with FINRA. FINRA also found that Vincent prepared Rule 3012 reports for two years, but the reports were deficient. The reports did not detail any reviews of the firm's procedures and did not describe areas of the firm's operations, including hedge fund activities that had been the subject of prior disciplinary actions and did not identify any deficiencies in the firm's supervisory system despite numerous supervisory failures. Vincent

failed to prepare a Rule 3013 report one year or ensure that someone else prepared it. In addition, FINRA determined that Vincent failed to establish, maintain and enforce firm written supervisory control procedures for processing third-party wires, and did not keep any documentation of its processing of the third-party wires. Moreover, FINRA found that Vincent failed to ensure his firm complied with a settlement in which it agreed to suspend offering hedge fund interests or opening new hedge fund accounts for six months, and to file all customer advertisements and sale literature relating to hedge funds with FINRA for six months following the suspension; but Vincent did nothing to ensure compliance, so the representatives offered and sold hedge fund interests to customers and disseminated sales literature without FINRA approval. Furthermore, FINRA found that although Vincent knew that firm representatives were selling hedge fund interests for compensation outside the regular scope of employment with the firm during the suspension, he failed to review and supervise the transactions, and failed to cause the firm to record the transactions in its books and records. The findings also stated as the firm's AMLCO, he failed to conduct independent tests of its AML program for two years.

The suspension is in effect from June 4, 2012, through June 3, 2014. ([FINRA Case #2008011650601](#))

Thoga Viswam (CRD #1543219, Registered Representative, Edison, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Viswam consented to the described sanction and to the entry of findings that he failed to comply with a FINRA request that he appear for an on-the-record interview as part of an investigation into allegations that he had signed customers' names on certain documents. ([FINRA Case #2011030263601](#))

Thomas Robert Vodicka (CRD #4816160, Registered Representative, Saukville, Wisconsin) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Vodicka'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, Vodicka consented to the described sanctions and to the entry of findings that he maintained four checking accounts and had check-writing privileges in each account. For approximately four months, Vodicka wrote checks against a number of his accounts when he knew he had insufficient funds in the accounts to cover the checks at the time he wrote and deposited them, but deposited sufficient funds to cover the checks by the time they cleared. The findings stated that Vodicka wrote checks from his business account to pay bills, then wrote a check from another account and deposited it into his business account to cover the first check; at times he wrote a check from yet another account to deposit into the account on which the second check was drawn, and so on. The findings also stated that Vodicka wrote checks on numerous occasions on accounts that did not have sufficient

funds and deposited a similar amount into the same account on or about the same day. The insufficient funds totaled an aggregate of approximately \$32,395, and the deposits to cover the checks totaled approximately \$32,355. The findings also included that Vodicka's firm's review did not disclose any financial impact from his activities on customers.

The suspension is in effect from June 18, 2012, through December 17, 2012. ([FINRA Case #2010023189401](#))

Alexandria Priftis West (CRD #1033011, Registered Principal, Great Falls, Virginia) submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, West consented to the described sanction and to the entry of findings that she owned and operated companies in which employees participated in the companies' 401(k) profit sharing plan, an employee pension benefit plan subject to the provisions of Title I of the Employee Retirement Income Security Act of 1974. The findings stated that West, as the plan's trustee, failed to remit \$76,608.66 in employee payroll withholdings to the plan, affecting some employees. West also failed to remit a mandatory employer match totaling \$18,006.04 to several qualifying participants. In total, West failed to remit \$94,614.70. The findings also stated that West transferred, or caused to be transferred, funds exceeding that amount from some business accounts related to the companies into a fourth business account and used the funds for personal expenses. The findings also included that by engaging in the conduct, West willfully converted to her own use funds and other assets of the plan. ([FINRA Case #2011029979701](#))

Harold E. Wilson (CRD #4921047, Registered Representative, Reseda, California) was barred from association with any FINRA member in any capacity and ordered to pay \$10,000, plus interest, in restitution to customers. The sanctions were based on findings that Wilson failed to respond to FINRA requests for information. The findings stated that while registered with his member firm, Wilson engaged in private securities transactions without notifying his firm in advance. Wilson persuaded the customers to loan him money as part of a plan to invest in gold coins. The findings also stated that Wilson persuaded the couple to loan him \$10,000 for one month, promising a 10 percent monthly return. Wilson told one customer that he would receive repayment from profits Wilson would obtain by engaging in transactions involving imported gold. Wilson has not repaid the customers. The second couple gave Wilson \$2,120 in cash. Wilson promised to repay the cash plus an additional \$600 in six days, which represented a 28 percent profit in six days or an annualized return of more than 1700 percent. The individuals made repeated attempts to contact Wilson but were unable to do so; they finally located Wilson after calling his firm. Wilson repaid their original investment without interest or profits. The findings also included that Wilson led the customers to believe that they would receive profits from investing in his program of gold trading, which involved several other customers. They relied entirely on Wilson's efforts to generate profits in order to receive the promised interest of more than 100 percent per year. Thus, Wilson appeared to have been selling investment contracts, and thus securities. ([FINRA Case #2011026683601](#))

Deirdre Elyse Winberg (CRD #3013409, Registered Representative, Cambridge, Massachusetts) submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Winberg's reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Winberg consented to the described sanctions and to the entry of findings that she altered the advisory fee amount and signed a customer's initials on her member firm's Client Services Election Form (CSE Form). The findings stated that initially, the account was scheduled to be charged a 2 percent fee, but Winberg was informed that the maximum fee that the firm allowed for that type of transaction was 1.75 percent. Despite the fact that the customer had already signed the CSE Form, Winberg crossed out the 2 percent fee, replaced it with a 1.75 percent fee, and signed the client's initials next to the change, without the customer's authorization to sign his initials on the document authorizing the change.

The suspension is in effect from May 21, 2012, through August 20, 2012. ([FINRA Case #2010023433801](#))

Dennis Michael Zator (CRD #812662, Registered Representative, Oak Lawn, Illinois) submitted an Offer of Settlement in which he was fined \$2,500 and suspended from association with any FINRA member in any capacity for 30 days. Without admitting or denying the allegations, Zator consented to the described sanctions and to the entry of findings that he borrowed a total of \$130,000 from his member firm's customers without his firm's approval. At the time of the loans, the firm did not have WSPs allowing registered representatives to borrow from customers. The findings stated that Zator completed branch office questionnaires in which he falsely responded that he had not made loans to or borrowed from any customer.

The suspension is in effect from July 2, 2012, through July 31, 2012. ([FINRA Case #2009020519501](#))

Ryan William Zumbrum (CRD #5191105, Registered Representative, Acworth, Georgia) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Zumbrum consented to the described sanction and to the entry of findings that in spite of not receiving authorization, he signed an individual's name on an application for the individual and her minor child without the individual's knowledge or consent to execute sales of term life insurance policies for them. The findings stated that in connection with the applications, Zumbrum asked the individual if he could execute applications to purchase \$50,000 of term life insurance on her and her minor child. Zumbrum's request was an effort to meet sales production goals and not based on the customer's insurance need. Zumbrum offered to pay for the policies. The customer did not authorize the

purchases. The findings also stated that in spite of not receiving authorization, Zumbrum also falsely attested that he witnessed the customer's signatures. Zumbrum paid the premiums on the policies. The findings also included that Zumbrum completed a form for the submission of an oral specimen test to his member firm's insurance agency in connection with the customer's term life insurance application. Zumbrum signed the customer's name on the form without her knowledge or consent and submitted an oral swab to the insurance agency in the customer's name, representing that it contained a sample from her when it did not contain an oral specimen from her. FINRA found that Zumbrum refused to appear and provide testimony as FINRA requested. ([FINRA Case #2010024464101](#))

Decision Issued

The Office of Hearing Officers (OHO) issued the following decision, which has been appealed to or called for review by the NAC as of May 31, 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 issues of FINRA Disciplinary and Other Actions.

Robert Noonan Drake (CRD #1213804, Registered Principal, Pawling, New York) was barred from association with any FINRA member in any supervisory capacity. The sanction was based on findings that Drake failed to supervise a registered representative despite his past disciplinary history and numerous red flags showing that the firm was consistently charging unfair and excessive markups and markdowns than other firms in corporate bond transactions, usually at least double the markups by other firms on similar size transactions, and frequently as much as six or seven times larger. The findings stated that Drake was aware the firm did not have written procedures in place for four years to check on whether the firm's TRACE reporting was timely and accurate. The findings stated that even though he knew the registered representative was executing corporate bond transactions, their member firm did not submit any TRACE reports on any bond transactions that year.

The decision has been appealed to the NAC and the sanctions are not in effect pending the appeal. ([FINRA Case #2006005378502](#))

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 the allegations in the complaint.

James Henry Bischoff III (CRD #2468603, Registered Representative, Alpharetta, Georgia) was named as a respondent in a FINRA complaint alleging that his member firm's customer gave Bischoff a check for \$120,000 made payable to an entity for an investment in a money market account. The complaint alleges that Bischoff failed to invest the \$120,000 in the manner that the customer instructed. Bischoff deposited the check into a bank account that he had opened for his personal use, under the same name as the entity that the check was made payable to, and converted the funds to his own use. The complaint also alleges that Bischoff solicited several firm customers to invest in a company which was not an approved investment of his firm. Bischoff's clients invested more than \$70,000 via private placements Bischoff facilitated. In consideration for his solicitation of these and other investors of the company, Bischoff received 120,000 shares of the company's stock and warrants to purchase an additional 250,000 shares. The complaint further alleges that Bischoff did not disclose or receive approval from anyone at his firm regarding his participation in the company's transactions. In addition, the complaint alleges that Bischoff failed to respond to FINRA requests for information and documents. ([FINRA Case #2011028975801](#))

Dean Kaplanidis (CRD #2832379, Registered Supervisor, Pearl River, New York) was named as a respondent in a FINRA complaint alleging that a customer purchased an insurance company's variable annuity through Kaplanidis' member firm in the amount of approximately \$215,000. The complaint alleges that at the time the customer purchased the variable annuity, Kaplanidis was his broker of record. After the customer's investment in the variable annuity, he moved to a foreign country, where he currently resides. The customer's variable annuity was structured to provide him with a monthly stream of income of approximately \$1,024.97 per month. The complaint also alleges that without the customer's knowledge or consent, Kaplanidis opened a personal checking account at his firm's affiliate bank branch in the customer's name, using information the customer provided on his variable annuity application, and requested the issuance of an ATM card for access to the funds in the checking account. The complaint further alleges that Kaplanidis forged annuity withdrawal forms to move funds from the customer's variable annuity to the checking account he had opened. Kaplanidis wrongfully transferred approximately \$145,184 of the customer's funds to the checking account, used the unauthorized ATM card and withdrew the funds from the checking account. In addition, the complaint alleges that the customer contacted the firm because his monthly systematic distributions from

his variable annuity had suddenly ceased. The firm promptly contacted the insurance company and learned that several withdrawals totaling \$145,184 were executed in the account, depleting the funds in the variable annuity. Moreover, the complaint alleges that in a related matter, Kaplanidis was charged with stealing property from the customer in the State of New York and pled guilty to grand larceny in the second degree, which is a felony. Kaplanidis was ordered to pay full restitution to his firm's affiliate. Furthermore, the complaint alleges that Kaplanidis failed to respond to FINRA requests for information.

[\(FINRA Case #2011025975301\)](#)

Neftali Mercedes (CRD #3201827, Registered Principal, New York, New York) was named as a respondent in a FINRA complaint alleging that he made false and misleading statements and omitted material facts in connection with the sale of private placements by a company. The complaint alleges those misstatements and omissions were material in that they concerned facts such as the timing and amount of repayments and interest payments to investors, the progress of the company's underlying development projects, and the ability of the company to cover its expenses and pay previous investors. The complaint also alleges that Mercedes lacked an adequate basis to support the statements he made, nor did he seek any. Mercedes' own experience visiting the site directly contradicted what he had told his customers. The statements he made were false and/or without basis, and the information he conveyed was material to his customers in deciding whether or not to invest in the company. The complaint further alleges that Mercedes made material misrepresentations concerning the safety of the investment, completely minimizing any risk involved and touting the notes as a safe bond deal with no risk. At the time Mercedes made these representations, the company had not generated any profits, had not repaid any of its debts and had sought to raise capital several times in order just to meet everyday expenses. Mercedes was aware of these facts, which were material in nature. In addition, the complaint alleges that Mercedes failed to inform a customer that the company had not repaid previous bridge loans, and that the holders of the first bridge loan had not been repaid. These were facts a reasonable investor would have wanted to know before deciding to invest in another bridge loan. A number of Mercedes' customers had invested in the first bridge loan and had not been repaid in a timely fashion. Therefore, he knew or recklessly disregarded evidence of the company's failure to meet its existing debt obligations. [\(FINRA Case #2008011743303\)](#)

Alfred Pierrepont Reeves III (CRD #372836, Registered Principal, Hallandale, Florida) was named as a respondent in a FINRA complaint alleging that he served as the FINOP for his member firm and was listed as an authorized billing contact for the firm with its clearing firm. The firm did not immediately remove Reeves as an authorized billing contact after it terminated his association. The complaint alleges that the clearing firm sent Reeves, as his firm's supposed authorized billing contact, an email regarding an invoice stating that the clearing firm owed money to the firm and requested payment instructions. Reeves responded to the email by attaching a completed accounting questionnaire containing routing information and account numbers to have the funds wired to a bank account

maintained by a company he owned, in part, and that he controlled. The complaint also alleges that the clearing firm wired \$59,704.93 to the account. Reeves did not inquire as to the source of the funds, wrote checks totaling \$55,182.36 from the account and made electronic payments from the account totaling \$3,389.69, knowing the funds did not belong to him, but used the funds for personal expenses, thereby converting funds that did not belong to him for personal expenses. The complaint further alleges that after the firm demanded Reeves return the funds, he repaid only \$31,000 as of the date of the complaint. ([FINRA Case #2011030192201](#))

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

ICP Securities LLC (CRD #133436)
New York, New York
(May 7, 2012)

Kamsky Securities, LLC (CRD #143106)
New York, New York
(May 16, 2012)

McClendon, Morrison Partners, Inc. (CRD #14684)
Chicago, Illinois
(May 11, 2012)

White Pacific Securities, Inc. (CRD #42505)
San Francisco, California
(May 29, 2012)

Firm Cancelled for Failure to Meet the Eligibility or Qualification Standards or Prerequisites for Access to Services Pursuant to FINRA Rule 9555

Birkelbach Investment Securities, Inc. (CRD #11490)
Chicago, Illinois
(May 26, 2012)

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

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

Blue Moon Financial, LLC (CRD #123224)
Denver, Colorado
(May 2, 2012)

Doley Securities, LLC. (CRD #7081)
New Orleans, Louisiana
(May 9, 2012)

GoNow Securities, Inc. (CRD #104020)
Los Angeles, California
(April 3, 2012 – May 25, 2012)

GoNow Securities, Inc. (CRD #104020)
Los Angeles, California
(May 9, 2012)

GoNow Securities, Inc. (CRD #104020)
Los Angeles, California
(May 15, 2012)

Pacific American Securities, LLC (CRD #42999)
San Diego, California
(May 9, 2012)

Walton Johnson & Company (CRD #26448)
Dallas, Texas
(May 4, 2012)

WJB Capital Group, Inc. (CRD #37334)
New York, New York
(May 2, 2012)

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

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

Doley Securities, LLC (CRD #7081)
New Orleans, Louisiana
(May 8, 2012)
FINRA Arbitration Case #10-05352

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.)

Leonaida A. Ancheta-Torres (CRD #2468059)
Las Vegas, Nevada
(May 16, 2012)
FINRA Case #2011030473401

Jose L. Banuelos (CRD #5706315)
Salem, Oregon
(May 16, 2012)
FINRA Case #2011027466301

Lance Ralph Butler (CRD #4169014)
Syracuse, Utah
(May 9, 2012)
FINRA Case #2011028973401

Mark Andrew Capristo (CRD #1913175)
West Des Moines, Iowa
(May 16, 2012)
FINRA Case #2011030451201

Jerry Eaton Clark Jr. (CRD #4575973)
Port Orange, Florida
(May 10, 2012)
FINRA Case #2011026045001

Jaclyn Marie Douglass (CRD #5465407)
Huntington, Maryland
(May 7, 2012)
FINRA Case #2011029246001

Brian Martin Dunlevy (CRD #5339430)
North Lauderdale, Florida
(May 16, 2012)
FINRA Case #2011028251002

Jeffrey Scott Farmer (CRD #2984174)
Longwood, Florida
(May 10, 2012)
FINRA Case #2011026547301

James A. Farris (CRD #5305588)
Hattiesburg, Mississippi
(May 16, 2012)
FINRA Case #2011029189601

Timothy Franklin Gates (CRD #4713393)
Evans, Colorado
(May 16, 2012)
FINRA Case #2010024609401

Anthony Thomas Giannattasio (CRD #5374896)
Thiells, New York
(May 10, 2012)
FINRA Case #2011029769201

Cliff Scott Golob (CRD #2602411)
Wellington, Florida
(May 16, 2012)
FINRA Case #2011029220001

Nigel Leonard Graham (CRD #2889111)
Bowie, Maryland
(May 16, 2012)
FINRA Case #2011028819301

Charles William Kopp III (CRD #2882188)
Broad Brook, Connecticut
(May 16, 2012)
FINRA Case #2011029274201

Amy Lachelle Ledbetter (CRD #5986761)
Odessa, Texas
(May 10, 2012)
FINRA Case #2011030014601

Charles Francis Lounsberry (CRD #5774254)
Windermere, Florida
(May 16, 2012)
FINRA Case #2011028691901

**Master S. Mays aka Jay Mays
(CRD #5223323)**
Pompano Beach, Florida
(May 16, 2012)
FINRA Case #2011028251001

Donald Kirk Nacey (CRD #5460336)
Kaysville, Utah
(May 16, 2012)
FINRA Case #2011030102201

Sigifredo Pazos (CRD #2444913)
Hazlet, New Jersey
(May 16, 2012)
FINRA Case #2011029386301

Howard Alexander Peyton (CRD #5610423)
College Park, Georgia
(May 10, 2012)
FINRA Case #2011029147601

Brenda Lee Santana (CRD #3081856)
Jersey City, New Jersey
(May 16, 2012)
FINRA Case #2011028271501

Oleg Shapiro (CRD #5241651)
Brooklyn, New York
(May 10, 2012)
FINRA Case #2011029429301

Bradley Thomas Smegal (CRD #716056)
Seattle, Washington
(May 31, 2012)
FINRA Case #2011030063801

Kevin Antony Williams (CRD #2159172)
Riverside, California
(May 3, 2012)
FINRA Case #2011028925601

**Pawyica Anna Adzo Woname
(CRD #5906118)**
Cleveland, Ohio
(May 10, 2012)
FINRA Case #2011029845701

**Individual 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.)

Tameka Darsaleik Johnson (CRD #2828002)
Wyncote, Pennsylvania
(May 17, 2012)
FINRA Case #C9A020026

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.)

David Arthur Albert Anderson (CRD #3210057)
Snohomish, Washington
(May 18, 2012)
FINRA Case #2011030655101

Joseph William Buckley (CRD #4778049)
Avondale, Arizona
(May 7, 2012)
FINRA Case #2011029111101

Geoffrey Scott Cash (CRD #5726267)
Madison Heights, Virginia
(May 21, 2012)
FINRA Case #2012031176001

Ellington Lloyd Ellis (CRD #4287959)
Grand Rapids, Michigan
(May 21, 2012)
FINRA Case #2010024310601

Colby R. Goering (CRD #5192689)
Dedham, Massachusetts
(May 7, 2012)
FINRA Case #2011028978101

Mellany Ann Isom (CRD #707501)
Hartsville, South Carolina
(May 18, 2012)
FINRA Case #2011029902401

Bentonamu Lai aka Binh Quoc Lai (CRD #4174974)
Houston, Texas
(May 7, 2012)
FINRA Case #2011027888501

Joshua James Lien (CRD #5675922)
Peoria, Arizona
(May 14, 2012)
FINRA Case #2010023711101

Man Kyu Park (CRD #5052887)
Palisades Park, New Jersey
(May 21, 2012)
FINRA Case #2011029971701

Albert Lawrence Vickery Jr. (CRD #5252665)
South Weymouth, Massachusetts
(May 4, 2012)
FINRA Case #2012030519303

Stefans Joseph Zaffuto Jr. (CRD #5495065)
Massapequa, New York
(May 14, 2012)
FINRA Case #2011029190101

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.)

William Blake Bentley (CRD #4766039)
Dallas, Texas
(May 1, 2012)
FINRA Arbitration Case #11-00856

Charles Harrison Coley IV (CRD #3277221)
Sarasota, Florida
(May 1, 2012)
FINRA Arbitration Case #11-02529

Jonathan David DeJulio (CRD #4340297)
Rockledge, Florida
(May 9, 2012)
FINRA Arbitration Case #11-00697

James Carl Gaul (CRD #218833)
 Lower Bank, New Jersey
 (May 9, 2012)
 FINRA Arbitration Case #11-02581

Ched Jordan Gelb (CRD #2975397)
 Dobbs Ferry, New York
 (May 9, 2012)
 FINRA Arbitration Case #10-00782

John Brady Guyette (CRD #1711681)
 Greeley, Colorado
 (May 1, 2012)
 FINRA Arbitration Case #10-01497

Eric M. Hansen (CRD #5474030)
 Dallas, Texas
 (May 9, 2012)
 FINRA Arbitration Case #11-02215

Terry Edward James (CRD #4001491)
 Renton, Washington
 (May 1, 2012)
 FINRA Arbitration Case #10-05416

John Jay Markland (CRD #2686021)
 Edgewater, Maryland
 (May 1, 2012)
 FINRA Arbitration Case #11-01941

Daniel Richard Mignone (CRD #3255740)
 Wellington, Florida
 (May 9, 2012)
 FINRA Arbitration Case #06-02510

Leslie Ann Ingram Miller (CRD #4451742)
 Edina, Minnesota
 (May 9, 2012)
 FINRA Arbitration Case #10-04299

John Marcus Newkirk Jr. (CRD #2708577)
 Eaton, Ohio
 (May 9, 2012)
 FINRA Arbitration Case #11-01899

Farhan Oshidary aka Andre Oshidary (CRD #1545176)
 Sunnyvale, California
 (May 1, 2012 – May 9, 2012)
 FINRA Arbitration Case #08-02259

Richard Peter Pascucci (CRD #4819805)
 Hamburg, New York
 (May 1, 2012)
 FINRA Arbitration Case #11-02582

Jared Austin Poe (CRD #4884505)
 Marina Del Rey, California
 (May 1, 2012)
 FINRA Arbitration Case #10-05170

Jeffrey Rachlin (CRD #823547)
 Pleasantville, New York
 (May 9, 2012)
 FINRA Arbitration Case #11-02581

William Alfred Schwind (CRD #4492997)
 Southlake, Texas
 (May 1, 2012)
 FINRA Arbitration Case #11-02750

Ted Sung-Woo Shin (CRD #4703282)
 Los Angeles, California
 (May 9, 2012)
 FINRA Arbitration Case #11-02260

Eric Scott Skigen (CRD #2543576)
 Bethesda, Maryland
 (May 1, 2012)
 FINRA Arbitration Case #11-03127

Neal Seth Smalbach (CRD #1459854)
 Palm Harbor, Florida
 (May 9, 2012)
 FINRA Arbitration Case #10-00053

Thomas Brian Vertin (CRD #4309799)
 Long Branch, New Jersey
 (December 3, 2010 – May 22, 2012)
 FINRA Arbitration Case #10-01236

FINRA Sanctions Four Firms \$9.1 Million for Sales of Leveraged and Inverse Exchange-Traded Funds

The Financial Industry Regulatory Authority (FINRA) announced that it has sanctioned Citigroup Global Markets, Inc; Morgan Stanley & Co., LLC; UBS Financial Services; and Wells Fargo Advisors, LLC a total of more than \$9.1 million for selling leveraged and inverse exchange-traded funds (ETFs) without reasonable supervision and for not having a reasonable basis for recommending the securities. The firms were fined more than \$7.3 million and are required to pay a total of \$1.8 million in restitution to certain customers who made unsuitable leveraged and inverse ETF purchases.

FINRA sanctioned the following firms:

- ▶ **Wells Fargo** – \$2.1 million fine and \$641,489 in restitution
- ▶ **Citigroup** – \$2 million fine and \$146,431 in restitution
- ▶ **Morgan Stanley** – \$1.75 million fine and \$604,584 in restitution
- ▶ **UBS** – \$1.5 million fine and \$431,488 in restitution

Brad Bennett, FINRA Executive Vice President and Chief of Enforcement, said, “The added complexity of leveraged and inverse exchange-traded products makes it essential that brokerage firms have an adequate understanding of the products and sufficiently train their sales force before the products are offered to retail customers. Firms must conduct reasonable due diligence and ensure that their representatives have an understanding of these products.”

ETFs are typically registered unit investment trusts (UITs) or open-end investment companies whose shares represent an interest in a portfolio of securities that track an underlying benchmark or index. Leveraged ETFs seek to deliver multiples of the performance of the index or benchmark they track. Inverse ETFs seek to deliver the opposite of the performance of the index or benchmark they track, profiting from short positions in derivatives in a falling market.

FINRA found that from January 2008 through June 2009, the firms did not have adequate supervisory systems in place to monitor the sale of leveraged and inverse ETFs, and failed to conduct adequate due diligence regarding the risks and features of the ETFs. As a result, the firms did not have a reasonable basis to recommend the ETFs to their retail customers. The firms’ registered representatives also made unsuitable recommendations of leveraged and inverse ETFs to some customers with conservative investment objectives and/or risk profiles. Each of the four firms sold billions of dollars of these ETFs to customers, some of whom held them for extended periods when the markets were volatile.

Leveraged and inverse ETFs have certain risks not found in traditional ETFs, such as the risks associated with a daily reset, leverage and compounding. Accordingly, investors were subjected to the risk that the performance of their investments in leveraged and inverse ETFs could differ significantly from the performance of the underlying index or benchmark when held for longer periods of time, particularly in the volatile markets that existed during January 2008 through June 2009. Despite the risks associated with holding leveraged and inverse ETFs for longer periods in volatile markets, certain customers of these firms held leveraged and inverse ETFs for extended time periods during January 2008 through June 2009.

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

FINRA Fines Citigroup Global Markets \$3.5 Million for Providing Inaccurate Performance Data Related to Subprime Securitizations

The Financial Industry Regulatory Authority (FINRA) announced that it has fined Citigroup Global Markets, Inc. \$3.5 million for providing inaccurate mortgage performance information, supervisory failures and other violations in connection with subprime residential mortgage-backed securitizations (RMBS).

Issuers of RMBS are required to disclose historical performance information for past securitizations that contain mortgage loans similar to those in the RMBS being offered to investors. Historical data on mortgage performance is material to investors in assessing the value of RMBS and in determining whether future returns may be disrupted by mortgage holders' failures to make loan payments.

Brad Bennett, FINRA Executive Vice President and Chief of Enforcement, said, "Citigroup posted data for its RMBS deals that it should have known was inaccurate; and even after they learned that the data was inaccurate, Citigroup did not correct the problem until years later. Investors use this data to inform their decisions and in this case, for over six years, investors potentially used faulty data to assess the value of the RMBS."

FINRA found that from January 2006 to October 2007, Citigroup posted inaccurate mortgage performance data on its website, where it remained until early May 2012, even though the firm lacked a reasonable basis to believe that this data was accurate. On multiple occasions, Citigroup was informed that the information posted was inaccurate yet failed to correct the data until May 2012. For three subprime or Alt-A securitizations, the firm provided inaccurate mortgage performance data that may have affected investors' assessment of subsequent RMBS.

In addition, Citigroup failed to supervise mortgage-backed securities pricing because it lacked procedures to verify the pricing of these securities and did not sufficiently document the steps taken to assess the reasonableness of traders' prices. Also, Citigroup failed to maintain required books and records. In certain instances, when it re-priced mortgage-backed securities following a margin call, Citigroup failed to maintain a record of the original margin call, document the supervisory approval or demonstrate that the revised price was applied to the same position throughout the firm.

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