# Disciplinary and Other FINRA Actions

#### Firms Fined, Individuals Sanctioned

1st Discount Brokerage, Inc. (CRD® #39164, Lake Worth, Florida), Alan Barry Miller (CRD #1106694, Naples, Florida), and Mark Irwin Miller (CRD #2228347, Overland Park, Kansas) submitted a Letter of Acceptance, Wavier and Consent (AWC) in which the firm was censured and fined \$60,000. Alan Miller was fined \$10,000, suspended from association with any FINRA® member in any capacity for one month, and ordered to pay \$8,598.86, plus interest, in disgorgement of commissions received. Mark Miller was fined \$10,000, suspended from association with any FINRA member in any capacity for one month, and ordered to pay \$15,969.31, plus interest, in disgorgement of commissions received.

Without admitting or denying the findings, the respondents consented to the sanctions and to the entry of findings that the firm, acting through Alan Miller and Mark Miller, executed sales of large blocks of low-priced securities without conducting a reasonable searching inquiry to determine whether the securities sold were registered or the transactions were subject to an exemption from registration under Section 5 of the Securities Act of 1933 (Securities Act). The findings stated that firm customers engaged in a pattern of depositing large blocks of low-priced securities in their accounts, liquidating the low-priced securities, and then wiring the sale proceeds to an account outside the firm without re-investment. The firm, Alan Miller and Mark Miller facilitated customer liquidations of approximately 7,764,600 shares of nine different issuers, of which eight traded on either the over-the-counter (OTC) pink sheets or the OTC bulletin board, and were shares of low-priced securities. The findings also stated that the sales of all shares in the customers' accounts generated net proceeds of \$2,754,512.68 and total commissions of \$63,348.75. Out of the total shares sold, shares of two issuers were sold in contravention of Section 5 of the Securities Act, as there was not a registration statement in effect and the transactions were not subject to an exemption from registration.

The findings also included that the firm had inadequate written supervisory procedures (WSPs) to ensure compliance with Section 5 of the Securities Act. Specifically, the firm's WSPs did not require a reasonable searching inquiry to confirm whether a low-priced security was registered or the proposed transaction was subject to an exemption from registration. The respondents essentially relied upon their clearing firm, and various stock transfer agents, to determine whether shares of stock were freely tradable. The firm failed to adequately update its WSPs to include specific procedures relating to the deposit and liquidation of low-priced securities.

## Reported for June 2015

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) compliance program was also deficient in monitoring for potentially suspicious activity related to the deposit and liquidation of low-priced securities. The firm failed to establish and implement AML policies and procedures that could reasonably be expected to detect and cause the reporting of potentially suspicious transactions related to the risks posed by the deposit and liquidation of low-priced securities. Further, the firm failed to provide adequate training related to the risks posed by the deposit and liquidation of low-priced securities to relevant personnel in operations, sales and compliance, to allow for the detection, investigation and reporting, where appropriate, of suspicious activity.

The suspensions are in effect from May 18, 2015, through June 17, 2015. (FINRA Case #2009020821501)

#### Firms and Individuals Fined

Orion Trading, LLC (CRD #43932, Orlando, Florida) and Bernard Kiesel (CRD #2193004, Lake Mary, Florida) submitted an AWC in which the firm was censured and fined \$10,000, of which \$5,000 is joint and several with Kiesel. Without admitting or denying the findings, the firm and Kiesel consented to the sanctions and to the entry of findings that the firm, acting through Kiesel, conducted a securities business while it failed to maintain its required minimum net capital. Kiesel was the firm's financial and operations principal (FINOP) and was therefore responsible for ensuring that the firm met its minimum net capital requirements, made all required net capital-related filings, and prepared and maintained accurate books and records related to the firm's net capital computation. The findings stated that the firm, acting through Kiesel, failed to deliver notice the same day of its net capital deficiencies to the Securities and Exchange Commission (SEC) and prepared and maintained inaccurate books and records that contained inaccurate net capital computations. (FINRA Case #2013037303701)

#### Firms Fined

ATM Execution LLC (CRD #122529, New York, New York) submitted an AWC in which the firm was censured and fined \$20,000. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it failed to transmit Reportable Order Events (ROEs) to the Order Audit Trail System (OATS<sup>TM</sup>). The findings stated that the firm also transmitted Execution Reports to OATS that included inaccurate Reporting Exception Codes. (FINRA Case #2014039692701)

Aqua Securities L.P. (CRD #47681, New York, New York) submitted an AWC in which the firm was censured, fined \$45,000, and required to revise its supervisory system with respect to order marking requirements and short sale trade reporting. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that

it executed numerous short sale transactions in National Market System (NMS) stocks and OTC equity securities, and failed to report each of these transactions to the FINRA/NASDAQ Trade Reporting Facility (FNTRF) or the OTC Reporting Facility with a short sale modifier. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to the applicable securities laws and regulations, and the rules of the SEC, FINRA and NASD®, concerning order-marking requirements and short sale trade reporting. (FINRA Case #2013037243601)

BNP Paribas Securities Corp. (CRD #15794, New York, New York) submitted an AWC in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it transmitted reports that contained inaccurate, incomplete or improperly formatted data to OATS. The findings stated that prior to executing or permitting orders to be executed, the firm failed to reduce, increase, or adjust the price and/or number of shares of such orders by an amount equal to the dividend, payment or distribution, on the day that the security was quoted ex-dividend, ex-rights, ex-distribution or ex-interest. (FINRA Case #2012031657201)

Chessiecap Securities, Inc. (CRD #132153, Towson, Maryland) submitted an AWC in which the firm was fined \$5,000. Without admitting or denying the findings, the firm consented to the sanction and to the entry of findings that it failed to conduct independent testing of its AML compliance program on an annual basis. (FINRA Case #2013035121501)

Citigroup Global Markets Inc. (CRD #7059, New York, New York) submitted an AWC in which the firm was censured, fined \$20,000 and ordered to pay \$153.40, plus interest, in restitution to an investor. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it effected transactions in securities while trading halts were in effect. (FINRA Case #2012033978701)

Global Strategic Investments, LLC (CRD #117028, Miami, Florida) submitted an Offer of Settlement in which the firm was censured and fined \$200,000. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it failed to detect, investigate, and report, where appropriate, suspicious activity related to Venezuelan bond transactions and subsequent wire activity. The findings stated that firm launched a new business line that immediately generated the majority of its revenues—facilitating currency exchanges through the liquidation of Venezuelan bonds for two correspondent accounts of foreign financial institutions (FFIs) located in high-risk jurisdictions, Venezuela and Curacao. Each of these transactions occurred during the period when Venezuela's Sistema de Transacciones con Titulos en Moneda Extranjera (SITME) (aka System of Foreign Currency Transactions), which was dismantled in February 2013, was in effect. The firm relied unreasonably on SITME and its regulation as a substitute for the firm's own due diligence and monitoring. The firm's written anti-money laundering compliance program (AMLCP) addressed its obligations under AML laws and regulations, and FINRA rules, to perform due diligence at account opening, monitor account activity, and

detect and investigate red flags of suspicious activity. Nevertheless, in practice, the firm failed to identify the money-laundering risk associated with the Venezuelan bond accounts and their anticipated activity and failed to adjust its procedures to account for the highrisk nature of this new endeavor. Instead, the firm primarily relied upon its new clients' representations about the legitimacy of the transactions without further reasonable risk-based review to corroborate such representations. The firm's over-reliance upon the client's representations led to failures to detect "red flags" that should have required additional due diligence. The firm did not have a sufficient policies, systems and procedures to adequately monitor this business nor did it reasonably implement its existing AMLCP. (FINRA Case #2011025676501)

Grace Financial Group LLC (CRD #104133, Southampton, New York) submitted an AWC in which the firm was censured and fined \$20,000. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it failed to transmit ROEs to OATS. The findings stated that the firm failed to provide documentary evidence that it performed the supervisory reviews set forth in its WSPs concerning OATS. (FINRA Case #2014041086101)

ICAP Securities USA LLC (<u>CRD #19739</u>, Jersey City, New Jersey) submitted an AWC in which the firm was fined \$5,000. Without admitting or denying the findings, the firm consented to the sanction and to the entry of findings that it failed to report transactions in Trade Reporting and Compliance Engine® (TRACE®)-eligible securitized products to TRACE within the time required. (FINRA Case #2014041070701)

KCG Americas LLC (<u>CRD #149823</u>, Jersey City, New Jersey) submitted an AWC in which the firm was censured and fined \$12,500. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it effected transactions in securities while trading halts were in effect. (FINRA Case #2011029289901)

Ladder Capital Securities LLC (CRD #151403, New York, New York) submitted an AWC in which the firm was censured and fined \$50,000. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that after the relocation of its offices, it failed to maintain and preserve, in the manner required under Section 17(a) of the Securities Exchange Act of 1934 and Rule 17a-4 thereunder, all of the electronic communications that its employees sent or received via Bloomberg. The findings stated that in connection with the relocation, a new Bloomberg account was established for the firm, but it did not cause its third-party electronic storage media vendor to receive data from the new account. After discovering the issue, the firm reported it to FINRA pursuant to FINRA Rule 4530 and recovered directly from Bloomberg all Bloomberg communications that were sent or received. (FINRA Case #2014041526501)

Merrion Securities, LLC (CRD #30145, Westfield, New Jersey) submitted an AWC in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it failed to deposit investor

funds into a proper escrow account while acting as the placement agent for a company's contingent private placement offering of securities. The private placement memorandum stated that the offering was contingent upon raising a minimum of \$2 million and provided that, until the \$2 million contingency was met, investor funds would be placed and held in an escrow account. The findings stated that contrary to the terms of the private placement memorandum, investors' funds were deposited into the company's bank account and later transferred into an attorney trust account that was not used exclusively to hold investor funds and that was not under the firm's control. The findings also stated that after the offering had raised less than \$2 million, the company amended the offering and lowered the contingency to \$1 million. Because the terms of the contingency were thereby altered, the firm was required to terminate the offering and return investors' funds, however, it failed to do so, in willful violation of Section 10(b) of the Securities Exchange Act of 1934 and SEC Rule 10b-9. (FINRA Case #2012030643901)

Morgan Stanley & Co., LLC (CRD #8209, New York, New York) and Morgan Stanley Smith Barney LLC dba Morgan Stanley (CRD #149777, Purchase, New York) submitted an AWC in which the firms were each censured, and Morgan Stanley was fined \$675,000, of which \$124,406.93 was imposed jointly and severally with Morgan Stanley & Co., LLC. Without admitting or denying the findings, the firms consented to the sanctions and to the entry of findings that they failed to reasonably supervise, implement adequate written procedures, or maintain a supervisory system that was reasonably designed to ensure compliance with Municipal Securities Rulemaking Board (MSRB) rules. The firms' supervisory procedures failed to address short positions in tax-exempt municipal bonds that resulted primarily from trading errors at the firms' retail branches. As a result of these supervisory failures, the firms inaccurately represented to at least 1,500 customers that at least \$880,000 in interest that the firms paid to those customers was exempt from taxation. In fact, the firms did not hold the bonds on behalf of the customers and the interest that the customers received was paid by the firms and thus taxable as ordinary income. This resulted in the underpayment of at least \$358,000 in federal income taxes. At one point, the firms recognized that short positions were not being covered in a timely fashion. However, the firms did not provide adequate guidance or oversight on how and when the municipal short positions should be covered. This deficiency was magnified because of the difficulty of covering these positions in light of the market structure and illiquidity of municipal bonds. Thus, the firms often did not cover municipal short positions for a month or more, and some of the short positions were not covered for years. The findings also stated that the firms sent account statements to customers that inaccurately stated that the customers were receiving tax-exempt income. (FINRA Case #2013038306401)

National Securities Corporation (CRD #7569, Seattle, Washington) submitted an AWC in which the firm was censured and fined \$20,000. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that while soliciting potential investors for separate private placements offerings, it failed to provide investors with documents disclosing the selling compensation it would receive for its role in

selling the private placement. While the firm generally disclosed to investors that it would receive compensation, it failed to disclose in writing the amount of selling compensation it would receive for each private placement. (FINRA Case #2013036454901)

Newport Coast Securities, Inc. (<u>CRD #16944</u>, New York, New York) submitted an AWC in which the firm was censured and fined \$7,500. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it submitted Execution or Combined Order/Execution Reports to OATS that contained inaccurate, incomplete or improperly formatted data. (FINRA Case #2013037817001)

optionsXpress, Inc. (CRD #103849, Chicago, Illinois) submitted an AWC in which the firm was censured and fined \$12,500. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it submitted its short interest position report to FINRA that included an incorrect number of positions and shares. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws and regulations, and/or the rules of FINRA concerning short interest reporting. (FINRA Case #2013038709001)

Pace Capital Corp. (CRD #15766, New York, New York) submitted an AWC in which the firm was censured and fined \$1,000. A lower fine was imposed after considering, among other things, the firm's revenues and financial resources. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it allowed its registered representatives to use personal email accounts for business-related communications, which were not being copied or forwarded to the firm. The findings stated that the firm failed to retain and conduct adequate reviews of emails and written correspondence. The findings also stated that the firm failed to have a designated principal to prepare and submit to the firm's senior management, no less than annually, a report detailing the member's system of supervisory controls, the summary of the test results and any additional supervisory procedures created in response to the test results. The findings also included that the firm failed to prepare a report, certified annually by the chief executive officer (CEO), indicating that the firm has in place processes to establish, maintain, review, test and modify written compliance policies, and WSPs reasonably designed to achieve compliance with applicable FINRA rules, MSRB rules and federal securities laws. FINRA found that the firm failed to adequately establish, maintain, and enforce a supervisory system and WSPs concerning the review, approval and monitoring of employee securities accounts held outside the firm. (FINRA Case #2013035265801)

Paulson Investment Company LLC (CRD #5670, Portland, Oregon) submitted an AWC in which the firm was censured and fined \$17,500. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it failed to transmit ROEs to OATS. The findings stated that the firm failed to enforce its WSPs, which specified that a supervisor would review OATS data for timely and accurate OATS reporting, including OATS reporting by the firm's reporting agents. (FINRA Case #2013036150101)

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**SG Americas Securities, LLC (CRD #128351, New York, New York)** submitted an AWC in which the firm was censured and fined \$7,500. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it effected transactions in securities while trading halts were in effect. (FINRA Case #2012033978801)

SG Americas Securities, LLC (CRD #128351, New York, New York) submitted an AWC in which the firm was censured and fined \$20,000. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it transmitted reports that contained inaccurate, incomplete or improperly formatted data to OATS. The findings stated that the firm failed to submit the correct related market center indicator to a non-tape report to the FNTRF. (FINRA Case #2013035826601)

Spartan Capital Securities, LLC (CRD #146251, New York, New York) submitted an AWC in which the firm was censured and fined \$7,500. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it paid commissions to unregistered entities controlled by its registered representatives, rather than to the registered representatives directly. (FINRA Case #2013035258901)

Spartan Securities Group, Ltd. (CRD #104478, Clearwater, Florida) submitted an AWC in which the firm was censured and fined \$25,000. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it failed to review certain employees' electronic communications as part of its supervisory process, and failed to maintain evidence of supervisory reviews of employees' electronic communications. The findings stated that the firm failed to create memoranda for brokerage orders. (FINRA Case #2010022193001)

Stock USA Execution Services, Inc. (CRD #107403, Carmel, New York) submitted an AWC in which the firm was censured, fined \$200,000 and required to provide reports, written and oral, to FINRA concerning the firm's implementation of systems, policies, and procedures to address the supervision, surveillance, and record-keeping violations and deficiencies detailed in the AWC. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings while engaging extensively in a direct market access (DMA) online-brokerage business, it failed to establish adequate AML policies and procedures to provide for the detection, investigation and reporting of potential suspicious activity. The firm, despite receiving numerous inquiries from FINRA in connection with thousands of instances of potential manipulative trading activity observed in certain customer accounts, did not take any meaningful steps to improve its ability to detect possible manipulative activity by its DMA customers and, in fact, continued to rely on its manual-based real-time monitoring of order/trade activity. None of the measures the firm employed provided an effective means to detect possible manipulative activity. In particular, the firm's reliance on a manual-based system of surveillance to detect indicia of manipulative trading activity was entirely unreasonable given the high-volume electronic trading environment in which the firm operated and the regulatory risks associated with the use of master-sub-account and omnibus-account structures. The firm's customers

included domestic and foreign individuals and entities, including FFIs. The firm's customers could directly enter, modify and cancel orders, route their orders to a specific market center of their choosing, and monitor the status of their orders in real-time. The firm permitted its FFI customers to extend their trading access to their own clients. The firm facilitated this practice by allowing its FFI customers to maintain master/sub-account and omnibus account structures at the firm. The use of master/sub-account and omnibus-account structures presents significant regulatory risks due to their potential to mask beneficial ownership and to be used as vehicles to engage in illegal activity, such as money laundering, insider trading and market manipulation. The firm failed to employ appropriate systems and procedures to address these risks.

The findings stated that the firm did not ever perform any periodic reviews, when its AML procedures provided that the AML compliance officer (AMLCO) or his designee would conduct periodic reviews of the activity of each FFI correspondent account for the purpose of assessing whether the activity is consistent with the information that was provided by the FFI regarding the purpose and expected activity of the account, and to ensure that the firm had effective systems and procedures to identify suspicious activity in the particular FFI correspondent account. The findings also stated that the firm failed to implement adequate controls and supervisory procedures designed to restrict access to market-access systems to persons specifically authorized by the firm, by allowing FFI customers to extend DMA, through their accounts, to their own clients. The firm also failed to implement adequate post-trade execution reports to facilitate detection of manipulative trading activity, relying instead on manual-based real-time monitoring of account activity to spot potentially manipulative or otherwise suspicious trading activity. The findings also included that the firm failed to make a memorandum of all orders entered through its third-party trading platform. The firm relied on the platform owner/licensing entity to provide a daily record of executed trades. However, the platform owner/licensing entity was not obligated to provide the daily record of executed trades to the firm. More importantly, the daily record did not reflect orders that had been cancelled or otherwise not executed. (FINRA Case #2008013749203)

Stock USA Execution Services, Inc. (CRD #107403, Carmel, New York) submitted an AWC in which the firm was censured, fined \$85,000, and required to provide reports to FINRA concerning its implementation and the effectiveness of its policies, systems, procedures and training to ensure that it addressed the supervisory inadequacies identified. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it failed to preserve certain order memoranda, account statements, customer confirmations, and/or other books and records. The findings stated that the firm failed to preserve certain order activity file records as to open orders generated by specified order management systems for three of the firm's four order management systems. The findings also stated that the firm failed to show the correct entry time and/or execution time on memoranda of brokerage orders; failed to denote on order memoranda that the order was a directed order; failed to denote the correct order entry times, cancellation times and/or

routing venues on order memoranda; and failed to show accurate time notations on order memoranda. The findings also included that the firm failed to designate whether orders were short or long sales or short exempt, incorrectly marked long sales as a short sales, and incorrectly marked short sales as long sales.

FINRA found that the firm transmitted OATS reports concerning orders that contained inaccurate, incomplete or improperly formatted data. FINRA also found that the firm failed to transmit ROEs to OATS. In addition, FINRA determined that the firm accepted orders from customers that were executed in whole or in part in the pre-market session or post market session without disclosing to such customers that extended hours trading involves material trading risks. Moreover, FINRA found that the firm failed to notify its customers at least annually that customers may request specific information regarding the routing of their own trades, and failed to adequately disclose to customers the differentiation between two routing venues. Furthermore, FINRA found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to certain applicable securities laws and regulations, and/or the rules of FINRA-related to various quality of markets topics. The findings also stated that the firm failed to provide documentary evidence that it performed the supervisory reviews set forth in its WSPs concerning registration of firm personnel and OATS reporting compliance. (FINRA Case #2012031086404)

**SunGard Brokerage & Securities Services LLC (CRD #104162, Geneva, Illinois)** submitted an AWC in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that for a sample of settlement dates, its short interest position report submitted to FINRA included an incorrect number of positions and shares. (FINRA Case #2013035489101)

**SunGard Brokerage & Securities Services LLC (CRD #104162, Geneva, Illinois)** submitted an AWC in which the firm was censured and fined \$17,500. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it transmitted reports that contained inaccurate, incomplete or improperly formatted data to OATS. (**FINRA Case #2013035829201**)

Tullett Prebon Financial Services LLC (CRD #28196, Jersey City, New Jersey) submitted an AWC in which the firm was censured, fined \$22,500 and required to revise its WSPs. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it failed to timely report ROEs to OATS. The findings stated that the firm transmitted to OATS New Order Reports and related subsequent reports where the timestamp for the related subsequent report occurred prior to the receipt of the order, and transmitted Execution Reports to OATS that OATS was unable to link to the related trade report in a FINRA transaction reporting facility due to inaccurate, incomplete or improperly formatted data. The firm also transmitted Execution Reports to OATS that it was not required to transmit, and transmitted Exchange Route Reports to OATS that OATS was

unable to link to the related exchange order due to inaccurate, incomplete or improperly formatted data. In addition, the firm transmitted Route or Combined Order/Route Reports to OATS that OATS was unable to link to the receiving firm's related New Order Report due to inaccurate, incomplete or improperly formatted data. Furthermore, the firm transmitted New Order Reports to OATS that OATS was unable to link to the Route or Combined Order/Route Reports transmitted by other members that named the firm as the Sent to Firm due to inaccurate, incomplete or improperly formatted data. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to the applicable securities laws and regulations, and FINRA rules, concerning OATS. Specifically, the firm's supervisory system did not include WSPs providing for the identification of the person(s) responsible for supervision with respect to the applicable rules, and a statement of the supervisory step(s) to be taken by the identified person(s). (FINRA Case #2012034446601)

United First Partners LLC (CRD #155456, London, United Kingdom) submitted an AWC in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it effected a material change in business operations without seeking required FINRA approval by engaging in principal trades for customers and proprietary trades when its Membership Agreement did not allow it to engage in such activities. The findings stated that the firm, while acting in a principal capacity, failed to disclose its correct capacity on customer conformations, and failed to disclose markups or markdowns that it charged to customers on customer confirmations. (FINRA Case #2013037114501)

WealthForge, LLC (CRD #152550, Richmond, Virginia) submitted an AWC in which the firm was censured and fined \$20,000. A lower fine was imposed after considering, among other things, the firm's revenue and financial resources. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it failed to preserve business-related communications sent or received by certain registered representatives using outside email accounts and social media. The findings stated that the firm permitted representatives to use outside email accounts for business-related communications, but it did not have an automated email retention system for these accounts. Instead, the firm required each representative to forward all business-related communications to it for review and retention. Certain representatives failed to forward their emails to the firm as required. In addition, due to a technical problem in setting up a new system to capture all email communications, the firm failed to capture and retain the emails of representatives' outside email accounts for a six-week period. The firm also permitted representatives to use social media applications to send and receive business-related communications, but failed to retain these communications. The findings also stated that the firm failed to implement an adequate supervisory system designed to capture, review, and retain email and social media communications. (FINRA Case #2014038914901)

Wedbush Securities Inc. (CRD #877, Los Angeles, California) submitted an AWC in which the firm was censured and fined \$17,500. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it failed to properly mark sell orders as long or short; and, as a result, also failed to report the transactions to the FINRA Trade Reporting Facility®® with the correct symbol indicating whether the transactions were long or short. (FINRA Case #2013036214001)

Wells Fargo Securities, LLC (CRD #126292, Charlotte, North Carolina) submitted an AWC in which the firm was censured and fined \$12,500. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it failed to report information regarding purchase and sale transactions effected in municipal securities to the Real-time Transaction Reporting System (RTRS); the firm failed to report information about such transactions to an RTRS portal within 15 minutes of the trade time. (FINRA Case #2013038813201)

#### Individuals Barred or Suspended

Amanda Tremaine Aguilar (CRD #2444758, Charles City, Virginia) submitted an AWC in which she was assessed a deferred fine of \$5,000 and suspended from association with any FINRA member in any capacity for 10 business days. Without admitting or denying the findings, Aguilar consented to the sanctions and to the entry of findings that she caused her member firm's books and records to be inaccurate when she entered inaccurate order entry information for securities transactions in customers' accounts. Specifically, Aguilar entered information into the firm's order system that stated that the transactions were unsolicited when they were solicited trades.

The suspension was in effect from April 6, 2015, through April 17, 2015. (FINRA Case #2013037824402)

Alex P. Anderson (CRD #4243107, New Carlisle, Ohio) submitted an AWC in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Anderson consented to the sanction and to the entry of findings that he misused \$75,500 from his member firm's customer's retail bank account for his own use and benefit. The findings stated that Anderson was appointed power of attorney (POA) over the 94-year-old customer, which provided him with broad authority over the customer's financial affairs. Anderson arranged for checks to be issued from the customer's bank account and deposited the checks into a bank account under his control for his own use and benefit. (FINRA Case #2014043846601)

Barrie Craig Arnold (CRD #5667930, Pensacola, Florida) submitted an AWC in which he was assessed a deferred fine of \$5,000 and suspended from association with any FINRA member in any capacity for 90 days. Without admitting or denying the findings, Arnold consented to the sanctions and to the entry of findings that he submitted a completed

questionnaire to his member firm in which he falsely certified that he had not borrowed money from or lent money to any client or non-client. In contravention of the firm's policy, Arnold had borrowed approximately \$10,000 from a firm customer. The findings stated that separately, Arnold borrowed \$9,000 from another individual who was his customer when his firm's procedures prohibited registered representatives from borrowing money or securities from a client and when he had not sought or obtained his firm's pre-approval for the loan. Additionally, Arnold again falsely certified on a firm questionnaire that he had not borrowed from any firm client.

The suspension is in effect from May 4, 2015, through August 1, 2015. (FINRA Case #2014040572701)

Jackie Jum Hwa Bae-Kingkeo (CRD #2231182, Olney, Maryland) submitted an AWC in which she was assessed a deferred fine of \$5,000 and suspended from association with any FINRA member in any capacity for three months. Without admitting or denying the findings, Bae-Kingkeo consented to the sanctions and to the entry of findings that she failed to timely amend her Uniform Application for Securities Industry Registration or Transfer (Form U4) to disclose tax liens and judgments.

The suspension is in effect from April 20, 2015, through July 19, 2015. (FINRA Case #2014040779901)

Beverly Anne Bailey (CRD #2629548, Rio Rancho, New Mexico) submitted an AWC in which she was assessed a deferred fine of \$5,000 and suspended from association with any FINRA member in any capacity for 30 business days. Without admitting or denying the findings, Bailey consented to the sanctions and to the entry of findings that she impersonated a customer on telephone calls, as an accommodation to help the customer expedite an individual retirement account (IRA) rollover from another financial institution.

The suspension is in effect from May 18, 2015, through June 29, 2015. (FINRA Case #2014043231501)

Michael Samuel Bell (CRD #1240582, Delray Beach, Florida) submitted an AWC in which he was suspended from association with any FINRA member in any capacity for three months. In light of Bell's financial status, no monetary sanctions have been imposed. Without admitting or denying the findings, Bell consented to the sanction and to the entry of findings that he violated his member firm's WSPs by sending emails relating to firm business on his personal email account. The firm did not monitor or retain the emails from Bell's personal account and, as a result, he caused his firm to maintain inaccurate books and records. The firm had disciplined Bell in the past for email-related misconduct, and he knew that the use of personal email was unauthorized. The findings stated that several of these emails recommended the purchase of interests in a private placement investment offered by the firm, and were unbalanced, promissory, misleading and/or lacked reasonable basis.

The suspension is in effect from May 4, 2015 through August 3, 2015. (FINRA Case #2014041848801)

Philip Earl Brunson (CRD #2153418, Champaign, Illinois) submitted an AWC in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Brunson consented to the sanction and to the entry of findings that he failed to provide FINRA-requested documents and information involving an investigation into allegations that he converted funds from the securities accounts of a member firm's customers. (FINRA Case #2014043597901)

Warren Carl Buterbaugh (CRD #1096581, Greensburg, Pennsylvania) 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, Buterbaugh consented to the sanction and to the entry of findings that he forged an elderly customer's signature on an annuity withdrawal request form and dated the form to effectuate the unauthorized surrender of the customer's variable annuity. The findings stated that Buterbaugh met with the customer, who wished to change the beneficiary on her variable annuity; but rather than changing the beneficiary, he submitted an annuity withdrawal request form that resulted in the customer's variable annuity being surrendered. (FINRA Case #2012034294301)

John Cherry III (CRD #1891720, New York, New York) was barred from association with any FINRA member in any capacity, and ordered to pay \$138,235.38 in restitution and \$300,000 as disgorgement, along with prejudgment interest on both amounts. The National Adjudicatory Council (NAC) imposed these sanctions following an appeal for review of an Office of Hearing Officers decision. The sanctions are based on findings that Cherry converted \$474,000 in customer funds to purchase a house without the customers' knowledge or authorization. At Cherry's direction, the customers transferred their funds to a company Cherry owned and controlled for the purpose of investing in securities. Rather than investing the funds in securities as the customers had directed, Cherry used the funds to purchase the house in which he and his wife were living. Cherry concealed his misconduct from his customers by making supposed interest payments, totaling \$35,764.17, and by causing false documentation of their purported securities investment to be sent to them. When the interest payments stopped, Cherry lied to his customers, offering a number of false excuses for why their funds could not be returned.

The NAC found that Cherry misused and converted customer funds in violation of FINRA Rules 2010 and 2150(a) and NASD Rule 2330(a), and that he willfully committed securities fraud in violation of Section 10(b) of Securities Exchange Act of 1934, Rule 10b-5 thereunder, and FINRA Rules 2020 and 2010. The NAC also found that Cherry engaged in outside business activities when he conducted business through two entities without making the required written disclosures to his member firm. Cherry used these entities as part of the scheme to convert his customers' funds. Cherry did not disclose any of his involvement with one entity; and with respect to the other entity, his disclosures to the firm were false and misleading.

The decision has been appealed to the SEC and the bar remains in effect pending review. (FINRA Case #2011026935101)

Raymond Thomas Clark (CRD #3120696, Williamsville, New York) was fined a total of \$20,000, suspended from association with any FINRA member in any capacity for a total of nine months, suspended from association with any FINRA member in any supervisory capacity for three months, and required to requalify by examination as a general securities representative and general securities principal before again acting in those capacities. The suspension in any supervisory capacity shall run consecutively, following the termination of Clark's suspension in any capacity. This decision was called for review, but the NAC has withdrawn its discretionary review of the matter. The sanctions were based on findings that Clark circumvented and violated his member firm's procedures by using his personal email account to communicate with a customer regarding firm business, and by not providing his firm with copies of that correspondence. Clark, by communicating with the customer through his personal email account, caused his firm to violate its recordkeeping obligations and prevented the firm from discharging its obligation to review incoming and outgoing written and electronic correspondence with the public. The findings stated that Clark made false statements to his firm concerning his communications with a customer, and false statements by an associated person of his firm. Clark knew that the firm would use the information he provided to respond to FINRA information requests concerning a complaint that the customer had filed with FINRA about his handling of the customer's account. The findings also stated that Clark failed to report to the firm a complaint he received from the customer accusing him of charging excessive commissions and engaging in the unauthorized use of margin, in violation of his firm's procedures.

The suspension in any capacity is in effect from June 15, 2015, through March 14, 2016. The suspension in any supervisory capacity is in effect from March 15, 2016, through June 14, 2016. (FINRA Case #2011027402201)

Jon Lawrence Cox (<u>CRD #2073950</u>, Knoxville, Tennessee) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Cox failed to respond to FINRA-requests for information involving an investigation to determine if he had engaged in unauthorized outside business activities. (FINRA Case #2014040234701)

Douglas Joseph Dannhardt (CRD #1277814, San Antonio, Texas) submitted an AWC in which he was assessed a deferred fine of \$25,000 and suspended from association with any FINRA member in any capacity for nine months. Without admitting or denying the findings, Dannhardt consented to the sanctions and to the entry of findings that he engaged in excessive and unsuitable trading in a customer's IRA accounts. The findings stated that Dannhardt exercised control over the customer's accounts and excessively traded in the customer's accounts in a manner that was inconsistent with the customer's investment objectives, financial situation and needs. The findings also stated that Dannhardt improperly exercised discretion in the customer's accounts (as well as the customer's trust account) and accepted trade orders for the customer's accounts from a third party without first obtaining the customer's written authorization and his firm's written acceptance.

The suspension is in effect from April 6, 2015, through January 5, 2016. (FINRA Case #2012034106201)

Ronald Terry Dunn (CRD #1374701, Haltom City, Texas) submitted an AWC in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Dunn consented to the sanction and to the entry of findings that he failed to appear for testimony in response to FINRA requests involving an investigation into whether he converted customers' money for his own benefit. (FINRA Case #2014042095201)

Samuel W. Ehrenthal (CRD #2807870, Monsey, New York) submitted an AWC in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Ehrenthal consented to the sanction and to the entry of findings that he failed to provide FINRA-requested documents and information involving an investigation into allegations that he engaged in certain outside business activities without his member firm's knowledge or consent, and failed to disclose certain tax liens on his Form U4. (FINRA Case #2015044328301)

**Timothy John Ehrler (CRD #5219129, Farmington, Connecticut)** submitted an AWC in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Ehrler consented to the sanction and to the entry of findings that he failed to provide FINRA-requested documents and information involving an investigation into the disclosures on his Uniform Termination Notice for Securities Industry Registration (Form U5) filed by his member firm. (FINRA Case #2015044054701)

**Brian David Ellerson (CRD #4006091, Bradenton, Florida)** submitted an AWC in which he was assessed a deferred fine of \$5,000 and suspended from association with any FINRA member in any capacity for 12 months. Without admitting or denying the findings, Ellerson consented to the sanctions and to the entry of findings that he sold securities issued by a limited liability company that he formed without providing his member firm with prior written notice about the private securities transaction or receiving his firm's written approval.

The suspension is in effect from May 4, 2015 through May 3, 2016. (FINRA Case #2013037706901)

Bart James Ellis (CRD #4348559, Chicago, Illinois) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Ellis falsified customer documents and exercised discretion in a customer's account without written authorization. The findings stated that when Ellis learned that his customer had told his member firm that he entered trades for her without prior discussion, he created entries in a computerized log of telephone conversations that falsely reflected telephone calls with the customer, reflecting that she authorized transactions in her account. The findings also stated that Ellis failed to appear and provide FINRA-requested testimony regarding his trading in the customer's account. (FINRA Case #2012034573001)

Barry Morton Ferrari (CRD #848024, Carmel, New York) submitted an AWC in which he was assessed a deferred fine of \$20,000 and suspended from association with any FINRA member in any principal capacity for three months. Without admitting or denying the findings, Ferrari consented to the sanctions and to the entry of findings that while serving as AMLCO and chief compliance officer (CCO) of his member firm, he failed to establish and implement a supervisory system, including written procedures, tailored to the firm's primary business line of extending DMA to domestic and foreign active-traders, including FFIs. Specifically, the firm's monitoring of trade activity in customer accounts was not reasonably designed to identify suspicious or potentially manipulative trading activity. In particular, the firm's reliance on a manual real-time review by a principal to detect suspicious activity was entirely unreasonable given the number and frequency of DMAcustomer orders processed daily. The findings stated that Ferrari, as AMLCO, failed to implement and enforce the firm's AML compliance program procedures requiring periodic assessments of all FFI correspondent accounts. The findings also stated that Ferrari failed to establish policies and procedures reasonably designed to ensure the firm's compliance with SEC Rule 15c3-5 by failing to implement adequate controls and supervisory procedures designed to restrict access to market-access systems to persons authorized by the firm, and by failing to implement adequate post-trade execution reports to facilitate detection of manipulative trading activity.

The suspension is in effect from April 20, 2015, through July 19, 2015. (FINRA Case #2008013749201)

Michael C. Filoramo (CRD #4312738, Little Egg Harbor, New Jersey) submitted an AWC in which he was assessed a deferred fine of \$10,000 and suspended from association with any FINRA member in any capacity for 75 days. Without admitting or denying the findings, Filoramo consented to the sanctions and to the entry of findings that he caused his member firm to violate Regulation S-P of the Securities Exchange Act of 1934 when he sent an unapproved email from his firm email address to his personal email address and a family member's email address that contained nonpublic personal information for approximately 1,100 of the firm's customers. The email included customer names, account numbers, account balances, home addresses, email addresses, telephone numbers and insurance policies held by the customers. Filoramo did not have permission from the firm or the affected customers to share the customers' non-public personal information with an unaffiliated third-party. The findings stated that Filoramo, contrary to his firm's policies and procedures, engaged in undisclosed outside business activities by selling equity-indexed annuities to firm customers without providing prior written notice to his firm or receiving its approval to engages in the transactions.

The suspension is in effect from April 20, 2015, through July 3, 2015. (FINRA Case #2013038292401)

Douglas William Finlay Jr. (CRD #2984422, Point Pleasant Beach, New Jersey) submitted an AWC in which he was assessed a deferred fine of \$15,000, ordered to pay deferred disgorgement of \$6,639.23, plus interest, and suspended from association with any FINRA member in any capacity for 18 months. Without admitting or denying the findings, Finlay consented to the sanctions and to the entry of findings that he recommended and effected an unsuitable transaction in a customer's account. The findings stated that pursuant to Finlay's recommendation, the customer invested all of her retirement funds and nearly all of her liquid net worth in a real estate investment trust (REIT). Finlay's recommendation was not suitable in light of the customer's risk tolerance, investment objective, the concentrated nature of the investment and her financial circumstances. In addition, Finlay failed to adequately disclose information to the customer in connection with the sale of the REIT, including that the investment was illiquid and highly speculative. The findings also stated that Finlay falsified a document, and caused his member firm's books and records to be inaccurate, by submitting a new account form that misrepresented the customer's net worth and income. Finlay falsified the document to evade his firm's limitation on the concentration of certain investments in customer accounts.

The suspension is in effect from April 20, 2015, through October 19, 2016. (FINRA Case #2013035576601)

Paul Joseph Godlewski (CRD #4892560, West Chester, Pennsylvania) submitted an AWC in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Godlewski consented to the sanction and to the entry of findings that he failed to provide FINRA-requested documents and information involving an investigation into allegations that he was involved in unapproved outside business activities and failed to follow his member firm's procedures concerning televised public appearances. (FINRA Case #2015044107901)

Daniel Grieco (CRD #1222747, Middletown, New Jersey) submitted an AWC in which he was fined \$7,500 and suspended from association with any FINRA member in any capacity for 15 business days. Without admitting or denying the findings, Grieco consented to the sanctions and to the entry of findings that he made recommendations of non-traditional exchange-traded funds (ETFs) to various customers without having reasonable grounds to believe his recommendations were suitable. The findings stated that Grieco, at the time of his recommendations, failed to appreciate the nature of the various leveraged and inverse-leveraged ETFs that were designed to achieve their objectives over the course of a single day but held for much longer periods.

The suspension was in effect from May 18, 2015, through June 8, 2015. (FINRA Case #2013035076201)

Michael Edward Halla (CRD #2738221, Manitowoc, Wisconsin) submitted an AWC in which he was fined \$10,000, suspended from association with any FINRA member in any capacity for two months and required to pay \$18,000, plus interest, in partial disgorgement of commissions. Without admitting or denying the findings, Halla consented to the sanctions and to the entry of findings that he engaged in a pattern of recommending that customers switch from one closed-ended fund (CEF), purchase in an initial public offering (IPO) to another CEF, on a short-term basis without having a reasonable basis to recommend the transactions. In addition to the short-term switching, Halla failed to research or consider recommending CEFs that were not being offered in an IPO in which his member firm was not a syndicate member. Halla also did not consider recommending that the customers purchase the same CEFs in the secondary market when the transaction costs would have been significantly lower. The findings stated that Halla also failed to understand certain fundamental aspects, unique features and the risks associated with the CEF IPO products he was recommending.

The suspension is in effect from May 18, 2015, through July 17, 2015. (FINRA Case #2012032915101)

David Harari (CRD #4094088, San Antonio, Texas) and Sian Alison Harari (CRD #4617506, San Antonio, Texas). David Harari was barred from association with any FINRA member in any capacity and ordered to pay \$15,000, plus prejudgment interest, as disgorgement. Sian Harari was barred from association with any FINRA member in any capacity. The sanctions were modified and the findings affirmed by the NAC following an appeal of the Hearing Panel Decision. The sanctions were based on findings that David Harari provided false information and documentation to FINRA and his member firm. Sian Harari participated in the creation of false documentation, a customer's letter and back-dated checks that she knew or intended would be provided to FINRA and her member firm, or both. The findings stated that David Harari and his wife Sian Harari received \$20,000 from a customer. David Harari's former firm disclosed on his Form U5 a firm investigation into the \$20,000, checks the customer provided to David Harari purportedly for financial planning services, and other matters, including alleged failure to disclose tax liens. As a result, FINRA sent a request to David Harari FINRA for information on the status of the customer's loan, including whether it had been repaid, checks for "planning fees" and undisclosed tax liens. David Harari participated in creating a false customer letter, which stated that the \$20,000 was a loan that had been fully repaid. In drafting his response to FINRA's inquiry, appending the customer's letter, and supplying both to his firm and FINRA, David Harari knowingly misrepresented the status of his \$20,000 indebtedness to the customer and the nature of the 2010 financial planning fee payments totaling \$7,500.

Sian Harari was involved in setting up a meeting with the customer, participating in the conversations surrounding the writing of the customer's letter, and was present while it was written. Sian Harari knew the letter falsely stated that the loan had been repaid. Sian Harari attempted to further the deception by writing back-dated checks, which she never

intended to honor and could not honor, to supply to her firm as proof of the falsehoods. David Harari obtained the financial planning fee payments by false pretense. Twice, David Harari induced the customer to pay him \$7,500 as financial planning fees, although he never intended to use the funds for that purpose, and as a result, converted the funds. The findings also stated that David Harari failed to disclose tax liens on his Form U4. (FINRA Case #2011025899601)

Jeffrey John Kerr (CRD #2744781, New Milford, Pennsylvania) submitted an AWC 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, Kerr consented to the sanctions and to the entry of findings that he participated in a private securities offering, for compensation, prior to providing notice to, and receiving approval from, his member firm. The findings stated that Kerr attended several luncheons with customers and a representative of an issuer for the purpose of introducing the customers to the issuer who was looking for investors in the private offering. Kerr provided written notice of the offering to his firm and requested permission to participate in the offering. However, before Kerr's firm had approved of his request, he further notified his firm that an existing customer, whom he had already referred to the issuer, wanted to invest \$25,000 in the offering. Kerr assisted the customer in effectuating the \$25,000 investment by coordinating the fund transfer from the customer's firm account to the issuer.

The suspension was in effect from May 4, 2015, through May 15, 2015. (FINRA Case #2013035055103)

Sylvester King Jr. (CRD #4011622, Miramar, Florida) submitted an AWC in which he was fined \$35,000 and suspended from association with any FINRA member in any capacity for 18 months. Without admitting or denying the findings, King consented to the sanctions and to the entry of findings that he circumvented one of his member firm's policies and procedures by assisting another registered representative in concealing approximately \$399,500 in loans to customers. The findings stated that King understood that the registered representative was concealing the loans in order to avoid the firm's reporting requirements. The findings also stated that King never disclosed to the firm that he loaned \$25,000 to a friend, who was unrelated to him and was also a firm customer. At the time, his firm's procedures prohibited loans to customers unless, among other factors, the customer was an immediate family member of the representative. The findings also included that King participated in private securities transactions without seeking or obtaining written approval from either of the firms he was associated with. Specifically, King and the other registered representative referred several of their clients to another individual for the purpose of investing in a startup company, which resulted in the clients purchasing approximately \$3.08 million of preferred stock. FINRA found that King falsely represented in one firm's compliance questionnaires that he had not participated in any private securities transactions.

The suspension is in effect from May 18, 2015, through November 17, 2016. (FINRA Case #2013036262101)

David Stephen Kinnear (CRD #2769750, Chicago, Illinois) submitted an AWC in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for five business days. Without admitting or denying the findings, Kinnear consented to the sanctions and to the entry of findings that he transferred customer account information onto personal thumb drives and sent these thumb drives to customers without his member firm's authorization prior to his voluntarily resignation from the firm and his move to another member firm. The findings stated that Kinnear did not have permission to transfer and send the firm's customer information for the purpose of recapturing it after he joined the other firm. In taking these actions, Kinnear violated the firm's policies and procedures.

The suspension was in effect from May 4, 2015, through May 8, 2015. (FINRA Case #2012031496901)

Jeffrey Griffin Lane (CRD #1663977, Darien, Connecticut) and Robert Marcus Lane Jr. (CRD #1411773, North Palm Beach, Florida). Jeffrey Lane was fined \$25,000, suspended from association with any FINRA member in any capacity for two years, and barred from association with any FINRA member in any principal or supervisory capacity. Marcus Lane was barred from association with any FINRA member in any capacity and ordered to pay \$218,581, plus prejudgment interest, in disgorgement to customers. The SEC sustained the sanctions following appeal of a NAC decision. The sanctions were based on findings that Marcus Lane engaged in an improper interpositioning scheme, and charged customers unfair prices and excessive markups. The findings stated that Marcus Lane failed to disclose excessive markups in willful violation of Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder. The findings also stated that Jeffrey Lane prepared deficient WSPs regarding interpositioning and monitoring for excessive markups. Jeffrey Lane's questioning of the mark-ups did not satisfy his supervisory obligations, and he failed to reasonably supervise Marcus Lane with a view to preventing violations of Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder. The findings also included that Jeffrey Lane and Marcus Lane failed to respond in a timely manner to FINRA requests for information.

The suspension is in effect from April 20, 2015, through April 19, 2017. (FINRA Case #2007008204901)

David John Levorchick (CRD #4849302, Troy, Ohio) submitted an AWC in which he was fined \$7,500 and suspended from association with any FINRA member in any capacity for 30 days. Without admitting or denying the findings, Levorchick consented to the sanctions and to the entry of findings that he made an unsuitable recommendation to liquidate a variable annuity when he negligently misrepresented to his customer that the liquidation of her variable annuity would not result in a significant tax liability. The liquidation resulted in a substantial capital gain, and the customer incurred a tax liability of approximately \$20,000. The findings stated that Levorchick was negligent because he should have

known that the liquidation of the variable annuity would result in a substantial capital gain and therefore a significant tax liability. Levorchick and the member firm eventually compensated the customer for the tax expense she incurred.

The suspension is in effect from May 18, 2015, through June 16, 2015. (FINRA Case #2013039198501)

Michael Ross Lively (<u>CRD #5721543</u>, Lexington, Kentucky) submitted an AWC in which he was assessed a deferred fine of \$5,000 and suspended from association with any FINRA member in any capacity for six months. Without admitting or denying the findings, Lively consented to the sanctions and to the entry of findings that he willfully failed to amend his Form U4 to disclose a felony charge.

The suspension is in effect from May 4, 2015 through November 3, 2015. (FINRA Case #2013038165701)

**Victor Tien Luu (CRD #1589293, Seattle, Washington)** submitted an AWC in which he was assessed a deferred fine of \$10,000 and suspended from association with any FINRA member in any capacity for three months. Without admitting or denying the findings, Luu consented to the sanctions and to the entry of findings that he willfully failed to disclose bankruptcy petitions on his Form U4.

The suspension is in effect from April 20, 2015, through July 19, 2015. (FINRA Case #2014042945201)

Patrick McGrath III (CRD #1251254, Miami, Florida) submitted an AWC in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for four months. Without admitting or denying the findings, McGrath consented to the sanctions and to the entry of findings that he borrowed a total of \$210,000 from his member firm's customer when the firm's WSPs prohibited employees from borrowing funds from a customer unless the customer was an immediate family member. The customer was not McGrath's family member. McGrath signed promissory notes that memorialized the loans but defaulted on the loans, resulting in a lawsuit filed by the customer to recover the amount owed. Although the customer's loan proceeds and McGrath's loan repayments came from funds held in the firm's accounts, McGrath concealed the loan from the firm by arranging for the loan proceeds and loan repayments to be sent to accounts held away from the firm before they were transmitted to McGrath or the customer. The findings stated that McGrath made false statements to the firm when he submitted three compliance questionnaires, in which he denied having borrowed funds from any firm customer.

The suspension is in effect from May 18, 2015, through September 17, 2015. (FINRA Case #2013037238901)

Darrell Wayne Mikulencak (CRD #2661351, Washington, Missouri) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Mikulencak forged a notary public's signature and made unauthorized use of the notary public's seal. The findings stated that Mikulencak failed to appear and testify for FINRA-requested, on-the-record testimony during the course of its investigation. (FINRA Case #2013037950901)

John Cody Miller (CRD #2937577, Indianapolis, Indiana) submitted an AWC in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for 20 business days. Without admitting or denying the findings, Miller consented to the sanctions and to the entry of findings that he exercised discretion in executing transactions in the accounts of approximately 90 customers in violation of his member firm's policies and procedures. The findings stated that Miller received prior verbal authorization from his customers for purchases and sales of products consistent with their investment strategies, but exercised his discretion in executing those transactions on future dates. Miller did not obtain his customers' written authorization to exercise discretion in their accounts and the firm did not approve these accounts for discretionary trading.

The suspension was in effect from May 4, 2015, through June 1, 2015. (FINRA Case #2014040152801)

Joseph Edward Bryan Mills (CRD #1275439, Fayetteville, Arkansas) submitted an AWC in which he was assessed a deferred fine of \$15,000 and suspended from association with any FINRA member in any capacity for three months. Without admitting or denying the findings, Mills consented to the sanctions and to the entry of findings that he signed paperwork provided by his member firm's employee without conducting a careful review of the documents. The documents misrepresented Mills' position, stating that he was an executive vice president of the firm's affiliate bank, and also misrepresented that the employee could pledge certain stock as collateral, when he was prohibited from doing so. The employee used the documents, representing that they had been approved by a bank officer, to improperly secure loans with at least three different lending institutions.

The suspension is in effect from May 4, 2015, through August 3, 2015. (FINRA Case #2014042685401)

Richard Winsor Ohrn (CRD #5106991, Boca Raton, Florida) 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, Ohrn consented to the sanction and to the entry of findings that he converted a total of \$15,250 from two elderly customers of his member firm who also were customers of the firm's affiliated bank. Ohrn did not return any of the funds that he converted. The findings stated that Ohrn forged or falsified the signatures of four firm customers on nine separate documents, all of which he submitted or caused to be submitted to his firm or its affiliated bank. The findings also stated that Ohrn caused his firm's books and records to be false by intentionally changing the account

address of record for two customers from their respective home addresses to the address of the firm's branch where he worked, and by falsely entering his branch office address as a customer's home address of record when the customer's account was opened. As a result, the customers did not receive account statements or trade confirmations.

The findings also included that Ohrn guaranteed an elderly customer against a loss she incurred for the early surrender of her variable annuity contract. Ohrn recommended that the customer surrender a variable annuity and as a result, the customer sustained a loss of approximately \$9,304 in fees charged against her account by the insurance company. Ohrn thereafter reimbursed the customer for most of the surrender charges when he deposited a \$9,000 cashier's check into the customer's account with the affiliated bank. (FINRA Case #2012030987301)

Aaron Robert Parthemer (CRD #2546369, Fort Lauderdale, Florida) submitted an AWC in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Parthemer consented to the sanction and to the entry of findings that he engaged in several outside business activities without providing prior notice to, or receiving approval from, his member firms. The findings stated that Parthemer loaned approximately \$399,500 to customers of one of his firms without permission. At the time, the firm's procedures prohibited loans to a firm customer unless the customer was an immediate family member of the representative and the loan was not securities related. Parthemer's loans were to customers who were not immediate family members, and the loans were not securities related. The findings also stated that Parthemer presented to firm customers an undisclosed private security in which the customers ultimately invested in approximately \$3.08 million of preferred stock. Parthemer's customer's investments were outside the course and scope of his employment with his firms, and he did not seek or obtain written approval from the firms to participate in the transactions. The findings also included that on multiple occasions, Parthemer provided false information and documents in response to FINRA's requests for information. FINRA found that Parthemer falsely represented to his firms in compliance questionnaires that he was not participating in any outside business activities that required disclosure and that he had not participated in any private securities transactions. (FINRA Case #2011030405801)

Larry Michael Phillips (CRD #362671, Westlake Village, California) submitted an AWC in which he was fined \$7,500, ordered to pay \$3,436.81, plus interest, in restitution to customers, and suspended from association with any FINRA member in any capacity for 45 days. Without admitting or denying the findings, Phillips consented to the sanctions and to the entry of findings that he overcharged certain customers by charging both a markup and investment advisory fees on the same products.

The suspension is in effect from May 18, 2015, through July 1, 2015. (FINRA Case #2011027842701)

Emiliano Rocha Jr. (CRD #2022170, Alhambra, California) submitted an AWC in which he was assessed a deferred fine of \$10,000 and suspended from association with any FINRA member in any capacity for seven months. Without admitting or denying the findings, Rocha consented to the sanctions and to the entry of findings that he borrowed a total of \$19,700 from a customer, and made false statements on annual compliance questionnaires that he submitted to his member firms attesting that he had not borrowed funds from customers. The findings stated that Rocha also failed to timely respond to FINRA requests for documents and information.

The suspension is in effect from April 20, 2015, through November 19, 2015. (FINRA Case #2013037576201)

John Michael Elias Saad (CRD #2185911, Atlanta, Georgia) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Saad misappropriated \$1,144 from his member firm's parent company by intentionally falsifying receipts, submitting a fraudulent expense report, and accepting reimbursement to which he was not entitled. The findings stated that Saad willfully engaged in efforts to deceive his employer about his expenses, did not come clean about his misconduct for months, and thereafter tried to conceal the extent of his actions from state and FINRA examiners. The findings also stated there were no mitigating factors.

In prior proceedings, the U.S. Court of Appeals did not disturb the findings that Saad misappropriated funds, but it remanded to the SEC for further consideration of the bar that had been imposed. The SEC remanded to the NAC the portion of the proceeding that concerned the sanction. On remand, the NAC reaffirmed the bar. (FINRA Case #2006006705601)

David Paul Santos (CRD #1834067, Niskayuna, New York) submitted an AWC in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Santos consented to the sanction and to the entry of findings that after receiving email instructions to transfer funds from an imposter who hacked into his member firm's customer's email account, Santos falsified the customer's name on 10 letters of authorization (LOAs), and the customer's wife's name on three of those LOAs, allowing the imposter to fraudulently transfer \$160,000 from the customer's individual and joint brokerage accounts to a third-party bank account. The third-party bank account was not in the name of, or related to, the customer or his wife. Once the imposter was discovered by the third-party bank, the firm recovered some of the funds from the thirdparty bank and reimbursed the customer and his wife for their entire loss. The findings stated that Santos executed unauthorized sales of stocks and municipal bonds in the customer's individual and joint brokerage accounts to fund the imposter's fraudulent wire transfers. Santos did not have discretion to execute trades in the brokerage accounts and never received authorization to execute these trades. Santos received \$256.69 in commissions for the unauthorized transactions. In addition, Santos mismarked the order

tickets for the unauthorized trades as unsolicited when, in fact, they were solicited. The findings also stated that by falsifying the LOAs and mismarking order tickets, Santos caused his firm's records to be inaccurate. (FINRA Case #2014041211201)

Richard Joseph Sarro (CRD #1246673, Las Vegas, Nevada) submitted an AWC in which he was assessed a deferred fine of \$5,000 and suspended from association with any FINRA member in any capacity for 30 days. Without admitting or denying the findings, Sarro consented to the sanctions and to the entry of findings that while associated with a member firm, he became employed as an accountant by an outside entity that was not engaged in a securities- or investment-related business, and failed to disclose, or provide his firm with prior written notice of, his outside employment.

The suspension was in effect from April 20, 2015, through May 19, 2015. (FINRA Case #2013038419701)

Joseph Damian Sciarrino (CRD #2931962, Staten Island, New York) submitted an AWC in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 30 business days. Without admitting or denying the findings, Sciarrino consented to the sanctions and to the entry of findings that without providing his member firm with prior and/or prompt written notice, he engaged in two separate business activities outside the scope of his relationship with the firm. The findings stated that Sciarrino established a property and casualty insurance brokerage, at which he became a partner; and became the chief financial officer of an oil refining technology company.

The suspension is in effect from May 18, 2015, through June 29, 2015. (FINRA Case #2013038277301)

James Elward Scott (CRD #2984252, Fort Worth, Texas) submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Scott consented to the sanction and to the entry of findings that while associated with his member firm, he knowingly and substantially aided and abetted an individual in engaging in the recommendation and sale of securities transactions in Texas when the individual was not registered with the State of Texas or with FINRA, and while the individual's association with the firm was pending. The findings stated that Scott repeatedly facilitated the individual's efforts to continue acting as a securities broker despite his unregistered status by facilitating investment seminars for the individual to solicit investment business from current and potential clients, making arrangements to allow the individual to meet with current and potential clients to solicit investment business, and executing trades brokered by the individual for clients. By engaging in this conduct, Scott aided and abetted the individual's violations of Section 15(a)(1) of the Securities Exchange Act of 1934. The findings also stated that Scott shared at least \$45,700 of his transaction-based commission income with the individual while the individual was unregistered with the State of Texas or with FINRA.

The findings also included that during on-the-record testimony, Scott knowingly provided false information to FINRA staff regarding the nature of his relationship with the individual and their conduct. Specifically, Scott falsely testified that the individual played no material role in seminar presentations to customers and potential clients. Scott also provided false testimony in his on-the-record testimony about the individual's extensive involvement in providing securities advice and making investment recommendations to various customers, and Scott's execution of transactions that had been recommended, brokered and/or arranged by the individual. Scott's sworn testimony on these topics was material to FINRA's investigation, and his false answers impeded that investigation. (FINRA Case #2013035723501)

Michael Joseph Seibert (CRD #2004082, Fogelsville, Pennsylvania) submitted an AWC in which he was assessed a deferred fine of \$20,000 and suspended from association with any FINRA member in any capacity for 10 months. Without admitting or denying the findings, Seibert consented to the sanctions and to the entry of findings that he failed to notify his member firm of an outside business activity. Seibert sold equity-indexed annuities (EIAs) that his firm had not approved for sale, and received a commission in the amount of approximately 10 percent of the customer's investment. The findings stated that Seibert participated in private securities transactions by purchasing shares or ownership interests in multiple entities, without prior written notice to, or permission from, the firm. The findings also stated that while Seibert was associated with his firm, he opened an IRA with a non-FINRA regulated financial institution and failed to disclose the existence of the IRA, an outside securities account, to the firm. The findings also included that Seibert made false statements to his firm when he submitted annual questionnaires certifying that he had notified the firm of any outside securities or financial institution accounts in which he held an interest. Because Seibert failed to disclose the existence of the IRA he opened, these statements were false.

The suspension is in effect from May 4, 2015, through March 3, 2016. (FINRA Case #2013036692701)

Raghuram Selvaraju (CRD #4978539, Jersey City, New Jersey) submitted an AWC in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 30 days. Without admitting or denying the findings, Selvaraju consented to the sanctions and to the entry of findings that he failed to provide prior written notice to his member firm of an outside business activity or of the compensation he received from it. The findings stated that Selvaraju submitted a questionnaire to his firm in which he inaccurately attested that he was not engaging in any outside business activities.

The suspension is in effect from May 18, 2015, through June 16, 2015. (FINRA Case #2014043530101)

Clayton Robert Sontag (CRD #2371415, St. James, New York) submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for five months. Without admitting or denying the allegations, Sontag consented to the sanctions and to the entry of findings that he willfully failed to disclose on his Form U4 unsatisfied federal tax liens and judgments. The findings stated Sontag made false attestations to his member firm on an annual compliance questionnaire and Form U4 acknowledgment form through which he failed to disclose the judgments and liens.

The suspension is in effect from May 18, 2015, through October 17, 2015. (FINRA Case #2013035634401)

Aditi Srivastava (CRD #6320333, West Warwick, Rhode Island) submitted an AWC in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Srivastava consented to the sanction and to the entry of findings that she failed to appear for FINRA-requested on-the-record testimony involving a FINRA investigation. (FINRA Case #2014042804001)

Kenneth Michael Statly (CRD #2114788, Grand Ledge, Michigan) submitted an AWC in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Statly consented to the sanction and to the entry of findings that in the course of conducting his insurance business, he fabricated insurance claims for two customers for the purpose of offsetting increases in those customers' homeowners insurance policy premiums. Statly fabricated insurance claims, without the customers' knowledge, and then issued the customers checks from his member firm's parent company, which he told the customers were reimbursements of premium overpayments, not payments of claims. The findings stated that on one occasion, Statly falsified a claim to offset his customer's deductible. Statly's customer, had made a claim under his policy and submitted a receipt in support of the claim. Statly altered the receipt the customer submitted by increasing the amount of the receipt in order to offset the customer's deductible. Stately then settled and paid the falsified claim using his agents draft authority. The findings also stated that on another occasion, Statly settled and paid a claim based on documentation that he knew had been altered. With respect to a homeowner's claim received from his customer, Statly could tell that the repair estimate had been altered, explicitly, inflated to satisfy the customer's deductible. Statly nevertheless settled and paid the claim using his agents draft authority. (FINRA Case #2014040694501)

Patrick Dennis Terrell (CRD #3022618, Mystic, Connecticut) submitted an AWC in which he was assessed a deferred fine of \$5,000 and suspended from association with any FINRA member in any capacity for one year. Without admitting or denying the findings, Terrell consented to the sanctions and to the entry of findings that he submitted a personal loan application to a bank that included a fabricated monthly statement falsely indicating

that he and his wife had a brokerage account worth \$247,519. The findings stated that Terrell created the fabricated monthly statement by taking an actual customer's account statement and then inserting his own name and address in place of the customer's.

The suspension is in effect from May 4, 2015, through May 3, 2016. (FINRA Case #2014041885601)

Robert Neil Tricarico (CRD #1500863, Norwalk, Connecticut) submitted an AWC in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Tricarico consented to the sanction and to the entry of findings that he failed to provide FINRA-requested documents and information involving an investigation into whether he converted customer funds. (FINRA Case #2014043719001)

Angelos Stephen Tsigounis (CRD #2136978, Sparta, New Jersey) submitted an AWC in which he was assessed a deferred fine of \$5,000 and suspended from association with any FINRA member in any capacity for four months. Without admitting or denying the findings, Tsigounis consented to the sanctions and to the entry of findings that he willfully failed to timely update his Form U4 to disclose tax liens the IRS had filed against him. The findings stated that in addition, Tsigounis falsely attested on member firm questionnaires that he did not have any unsatisfied liens.

The suspension is in effect from April 6, 2015, through August 5, 2015. (FINRA Case #2014040872901)

Zahir Walji (CRD #5073186, Austin, Texas) submitted an AWC in which he was assessed a deferred fine of \$7,500 and suspended from association with any FINRA member in any capacity for three months. Without admitting or denying the findings, Walji consented to the sanctions and to the entry of findings that he did not provide prior written notice to his member firm in such form as specified by it before engaging in outside business activities in which he had a reasonable expectation of receiving compensation. The findings stated that Walji completed and signed annual attestations that he had advised the firm of all outside business activities, but he failed to disclose two outside business activities. The findings also stated that Walji engaged in private securities transactions by selling limited partnership interests in a company to firm customers without providing written notice to or receiving approval from the firm. The findings also included that although Walji provided notice to the firm of additional outside business activities, he did not comply with the restrictions that it placed on him as conditions for approving the outside business activities.

The suspension is in effect from May 4, 2015, through August 3, 2015. (FINRA Case #2012034370501)

Thomas Stephen Walls (<u>CRD #1105863</u>, Collegeville, Pensylvania) submitted an AWC in which he was assessed a deferred fine of \$10,000 and suspended from association with any FINRA member in any capacity for three months. Without admitting or denying the

findings, Walls consented to the sanctions and to the entry of findings that he failed to timely amend his Form U4 to disclose an unsatisfied tax lien.

The suspension is in effect from May 4, 2015, through August 3, 2015. (FINRA Case #2014040934701)

Mark Douglas Weindling (CRD #860737, Aurora, Colorado) submitted an AWC in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Weindling consented to the sanction and to the entry of findings that he failed to provide FINRA-requested documents and information involving an investigation into, among other things, the disclosures on a Form U5, filed by his former member firm, reporting that he had effected transactions within a deceased customer's account and that he was aware of two separate journal requests containing the deceased customer's forged signature. (FINRA Case #2014041259001)

Branden Robert Windle (CRD #6091295, Redlands, California) submitted an AWC in which he was assessed a deferred fine of \$5,000 and suspended from association with any FINRA member in any capacity for one month. Without admitting or denying the findings, Windle consented to the sanctions and to the entry of findings that he failed to provide his member firm with prior written notification of his participation in private securities transactions. The findings stated that Windle solicited individuals to invest a total of \$40,000 in equity interests in a limited liability corporation (LLC) of which he was a principal and part owner. The investors were Windle's relatives and college friends, and were not the firm's customers.

The suspension was in effect from April 20, 2015, through May 19, 2015. (FINRA Case #2013038735002)

#### Individuals Fined

Stuart Conley (CRD #2765493, New York, New York) submitted an AWC in which he was censured and fined \$5,000. Without admitting or denying the findings, Conley consented to the sanctions and to the entry of findings that he effected discretionary options trades in customers' brokerage accounts without obtaining the customers' prior written authorization to exercise discretionary power in those accounts or his member firm's written acceptance of the accounts as discretionary. (FINRA Case #2013037694701)

Michael Clarke Gates (CRD #2946780, Huntington Beach, California) submitted an AWC in which he was censured and fined \$10,000. Without admitting or denying the findings, Gates consented to the sanctions and to the entry of findings that while associated with his former member firm, he exercised discretion in customers' accounts without first obtaining the customers' written authorization that was accepted by the firm. (FINRA Case #2012032384701)

#### **Decisions** 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 April 30, 2015. 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.

Fox Financial Management Corporation (CRD #134277, Carrollton, Texas), Brian Andrew Murphy (CRD #4743164, Frisco, Texas) and James Edward Rooney Jr. (CRD #1857754, **Carrollton, Texas).** The firm was expelled from FINRA membership and fined \$100,000. Murphy was fined \$25,000, barred from association with any FINRA member in any principal capacity and suspended from association with any FINRA member in any capacity for three months. Rooney was fined \$50,000, barred from association with any FINRA member in any principal capacity and suspended from association with any FINRA member in any capacity for six months. The sanctions were based on findings that the firm, Rooney as its president, and Murphy as its CCO, failed to reasonably supervise the private securities transaction of one of the firm's registered representatives and failed to record the transactions on the firm's books and records. The findings stated that the registered representatives engaged in private securities transactions and received selling compensation (both transaction-based compensation and profit participation interests). Nevertheless, the respondents failed to record the registered representative's private securities transactions on the firm's books and records, and failed to supervise the transactions as if they were executed though the firm. The findings also stated that the firm failed to establish, maintain, and enforce written supervisory systems and procedures that were reasonably designed to ensure compliance with NASD Rule 3040. The firm's WSPs were deficient because they specifically provided that registered representatives' investment advisory activities would be permitted and treated as outside business activities and thus would not be subject to the requirements of NASD Rule 3040. The procedures were also deficient because they failed to make clear that the receipt of asset management fees constituted "selling compensation." The respondents also failed to conduct a reasonable inquiry into the representative's registered investment adviser (RIA) and hedge fund businesses, and make a determination, documented in writing, as to whether such businesses constituted an outside business activity or outside securities activity. Further, the respondents failed to enforce the firm's procedures by failing to ensure that all the requirements of NASD Rule 3040 were met and to request copies of duplicate statements from the executing broker-dealer with respect to the representative's RIA and hedge fund activities. The findings also included that the firm's supervisory failures were systemic in nature.

This matter has been appealed to the NAC and the sanctions are not in effect pending the appeal. (FINRA Case #2012030724101)

Merrimac Corporate Securities, Inc. (CRD #35463, Altamonte Springs, Florida) and Robert G. Nash (CRD #718820, Deltona, Florida). The firm was fined a total of \$225,000, suspended from membership with FINRA for 30 business days, suspended for one year from receiving and liquidating penny stocks for which no registration statement is in effect, and required to retain an independent consultant to revise its WSPs. Nash was fined a total of \$50,000, suspended from associating with any FINRA member in any principal capacity for one year, and required to requalify as a principal before acting in any capacity requiring that qualification. The sanctions were based on findings that in response to FINRA requests for documents, the firm and Nash knowingly provided falsified Deposit Securities Request Forms (DSR Forms), a customer questionnaire regarding the source of the penny stock and its registration status, to FINRA that falsely reflected that various penny stock transactions had been reviewed by the firm's supervisory and compliance personnel, when in fact no supervisory review had occurred. Nash, the firm's CCO, acknowledged that he was responsible for the information provided to FINRA in response to FINRA's information requests. Neither Nash nor anyone else on the firm's behalf ever notified FINRA that the responses contained falsified DSR Forms. The findings stated that the falsification of the DSR Forms caused penny stock deposits by the firm's customers to avoid any supervisory review. The lack of an effective supervisory review contributed to the firm's sales of unregistered penny stock into the market. As a result, the firm sold unregistered securities in contravention of Section 5 of the Securities Act of 1933.

The findings also stated that the firm failed to develop and implement adequate AML policies and procedures to monitor, detect and cause the reporting of suspicious activity. Not only were the firm's policies and procedures inadequate, the firm failed to implement them in at least three ways. First, registered representatives obtained pre-signed, blank DSR Forms from their customers. Second, the firm failed to consistently and timely identify and document suspicious penny stock activity. Third, the firm failed to identify customers with regulatory disciplinary histories. FINRA dismissed the AML charges as they relate to Nash because Nash was not the firm's designated AML Officer and was not responsible for its AML program during the period at issue.

The findings also included that the firm and Nash failed to establish and maintain a reasonable supervisory system, including WSPs, for the activities of, and the business transacted by, the firm. As a result, the firm failed to supervise two registered representatives' participation in private securities transactions, failed to supervise penny stock transactions and DSR Forms, failed to supervise websites of its CEO and failed to timely establish procedures for foreign finders. Nash failed to reasonably supervise the firm's penny stock deposits and related DSR forms, establish procedures clearly identifying websites as advertising material, and timely establish reasonable procedures for the firm's utilization of foreign finders. FINRA found that the firm, while its registration with FINRA was suspended for the failure to pay its annual registration fee, effected securities transactions. During that period, the firm effected more than 750 securities transactions.

This matter has been appealed to the NAC and the sanctions are not in effect pending review. (FINRA Case #2011027666902)

Kimberly Ann Springsteen-Abbott (CRD #1367633, Holiday, Florida) was fined \$100,000, barred from association with any FINRA member in any capacity, and ordered to pay disgorgement in the amount of \$208,953.75, plus interest. The sanctions were based on findings that as the general partner of investment funds sold by her member firm and sponsored by its parent company, Springsteen-Abbott misused investor funds for three years by improperly allocating expenses to the investment funds that were not related to the funds' business. Springsteen-Abbott provided business justifications to FINRA for some of the expenses allocated to the funds. However, many of these business justifications were not credible, and others were demonstrably false. The findings stated that Springsteen-Abbott abused her authority by improperly allocating to the funds two types of expenses that were not related to the funds' business: personal expenses and broker-dealer expenses. Springsteen-Abbott, as a control person of the funds' general partner, had authority to allocate to the fund's expenses incurred in operating the funds' business. However, the documents creating the funds expressly limited the expenses that the funds would bear to expenses incurred in conducting and administering the funds' business. In addition, the documents creating the funds prohibited the allocation of control persons' expenses to the funds. Accordingly, because Springsteen-Abbott was a control person, her expenses were never chargeable to the funds. Nor were Springsteen-Abbott's husband's expenses after he became a control person. However, Springsteen-Abbott allocated her husband's expenses to the funds with knowledge that it was improper to do so. Springsteen-Abbott also allocated to the funds expenses associated with continuing education to maintain licenses relating to the firm/broker-dealer. Broker-Dealer training is not the funds' business, and under the offering documents the funds agreed to pay only the expenses of conducting the funds' business. Accordingly, the allocation of the brokerdealer's/firm's expenses to the funds was inconsistent with the provisions of the offering documents relating to the allocation of expenses and was improper.

This matter has been appealed to the NAC and the sanctions are not in effect pending review. (FINRA Case #2011025675501)

#### 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.

Giovanni L. Acevedo (<u>CRD #2508321</u>, Wilton Manors, Florida) was named a respondent in a FINRA complaint alleging that he converted \$162,848.42 in funds belonging to customers of his member firm. Acevedo was the financial adviser for the customers' brokerage

accounts at the firm. The complaint alleges that Acevedo received a check, based upon his recommendation, from a customer's personal checking account that he represented would be invested consistent with the customer's instructions. Acevedo did not invest the funds on the customer's behalf and instead converted the funds for his own use and benefit. Acevedo created a false account statement purporting to be from a company where the funds were invested. The customer did not receive her investment or any interest on her investment at the purported maturity date of the investment, or at any time before or after. Acevedo made other recommendations to the customer to invest in other financial products, including certificates of deposits at unidentified financial institutions. Acevedo instructed the customer that in order to make the recommended investments. she should provide him with signed checks from her personal checking account that left blank the name of the payee and the dollar amount. The customer gave Acevedo checks for investment in which she left the payee and dollar amount of the check blank. Acevedo did not invest any of the funds for the customer. Instead, Acevedo either cashed the checks or deposited the funds into a personal account in which he had beneficial ownership. The complaint also alleges that on multiple occasions Acevedo recommended that another customer invest in certain financial products, including products that he described as available only to his firm's employees. The customer followed Acevedo's recommendations and instructions and sent him checks to invest on her behalf. Acevedo did not invest any of the funds he received from the customer and instead converted all the funds for his own benefit.

The complaint further alleges that Acevedo recommended that a third customer invest in a security that he claimed his firm was underwriting. The customer agreed to invest, but instead of making the investment directly from the customer's account with Acevedo's firm, he arranged to have the funds withdrawn from the customer's account at the firm and sent to the customer. Acevedo instructed her to send him a check from her personal bank checking account and to leave the name of the payee blank, explaining that he was not yet sure of the name of the investment. Following Acevedo's instructions, she wrote a check to Acevedo, which he then cashed and converted for his own benefit. In addition, the complaint alleges that Acevedo provided false information in response to FINRA requests made during its investigation of his conversion of the customers' funds. (FINRA Case #2014041529001)

Vito James Balsamo (CRD #2084901, Staten Island, New York) was named a respondent in a FINRA complaint alleging that he participated in private securities transactions without first obtaining his member firm's written approval. The complaint alleges that Balsamo falsely represented to his firm that he had not taken part in/participated or been involved in any capacity in any private securities transaction, and that he hadn't been involved in any capacity in the purchase or sale of a security not conducted through the firm. The complaint also alleges that Balsamo failed to provide FINRA-requested, on-the-record testimony. (FINRA Case #2013036704401)

Otis Treat Bradley (CRD #28320, New York, New York) was named a respondent in a FINRA complaint alleging that he authored research reports containing false, misleading and unwarranted statements concerning a publicly traded pharmaceutical company. The complaint alleges that in the research reports, Bradley falsely claimed that a prominent medical research university was conducting clinical trials on humans to study the effects of one of the pharmaceutical company's dietary supplements on thyroid disorders. Additionally, Bradley made unwarranted and misleading statements concerning the pharmaceutical company's financial prospects, based on his inaccurate claim that the university was conducting clinical trials on humans, and made false, misleading and unwarranted claims regarding the pharmaceutical company's announcement of preliminary results of its clinical trials on humans. The complaint also alleges that Bradley failed to appear for FINRA-requested on-the-record testimony in connection with its investigation of his research reports on the pharmaceutical company. (FINRA Case #2013035928002)

Carolina Financial Securities, LLC (CRD #41970, Brevard, North Carolina) and Bruce Victor Roberts (CRD #1489110, Brevard, North Carolina) were named respondents in a FINRA complaint alleging that the firm, acting through Roberts and other registered representatives, made misrepresentations of material facts and omitted to disclose material facts to customers in connection with the sale of a funding entity's senior secured notes, ostensibly to raise capital for a medical and dental supply company. The firm, acting through Roberts, its president, CEO and CCO, failed to conduct reasonable due diligence in connection with the offering, and further created and provided to investors sales literature that misrepresented the security of the investment, the financial condition of the issuer and the value of the issuer's largest contract while also failing to disclose risks, investment fees and expenses. The firm and Roberts effected transactions in, or induced the purchase of the funding entity's notes by means of the entity's offering materials that were materially misleading and omitted material facts. By engaging in the foregoing conduct, the firm and Roberts willfully violated Section 10(b) of the Exchange Act of 1934 and Rule 10b-5 thereunder. The complaint alleges that in the alternative the firm and Roberts acted in contravention of Section 17(a) of the Securities Act of 1933.

The complaint also alleges that the firm and Roberts failed to conduct reasonable due diligence to fulfill its reasonable-basis suitability obligation. Despite numerous red flags, the firm relied solely upon information provided by the funding entity and the president of the medical and dental supply company without independently verifying any of the information. The firm, acting through Roberts, approved the sale of the entity's notes, sold the notes to customers and approved the transmittal of approximately \$2.3 million of investor funds to the medical and dental supply company. The firm and Roberts failed to heed the guidance provided in Regulatory Notice 10-22 and failed to conduct reasonable due diligence for the funding entity's offering before approving its sale to customers. Roberts was responsible for the firm's due diligence review, approved the entity's offering for sale by the firm and approved the release of customer funds.

The complaint further alleges that the firm prepared the funding entity's offering materials in connection with the entity's offering; and Roberts reviewed and approved the entity's offering materials, which were misleading. The information memorandum failed to disclose general and specific risks as well as the offering's investment fees and expenses. The term sheet disclosed the investment fees and expenses, but failed to disclose general and specific risks associated with the offering. In fact, the medical and dental supply company's financial statements were falsified and contained overstated accounts receivable. The firm and Roberts represented to customers in documents that the loan from the funding entity to the medical and dental supply company was secured by a first lien on substantially all of the assets of the company, and that the loan and interest were guaranteed by the company's president. While these documents were created, the documents were never executed, rendering these representations false. Documents further failed to disclose that the interest payments were not guaranteed and that loss of principal was possible. In addition, the complaint alleges that the firm and Roberts failed to enforce the firm's WSPs regarding its due diligence review, and its required suitability determination, in connection with the entity's offering. The \$5 million offering was the latest in a \$150,000,000 fraudulent scheme, which was halted when the president of the medical and dental supply company was arrested and subsequently pled guilty to wire fraud. (FINRA Case #2014040295201)

Ahmed Abdelmawla Gadelkareem (CRD #2815685, Brooklyn, New York) was named a respondent in a FINRA complaint alleging that he sent abusive and threatening communications to persons associated with his former employer to retaliate against them and the former employer for terminating his employment, and to force a settlement of a claim for unpaid commissions. The complaint alleges that Gadelkareem sent an email to one associated person of his former employer purporting to forward an email from a FINRA examiner (who does not actually exist), in which the examiner states, among other things, that the associated person is going to be arrested. (FINRA Case #2014040968501)

Richard Gomez (CRD #4727721, Jackson Heights, New York) was named a respondent in a FINRA complaint alleging that he defrauded investors of at least \$499,000 through his participation in two separate schemes involving private securities transactions away from his member firm. Gomez participated in the sale to investors of membership interests in entities affiliated with a foreign company, which purported to offer investors the opportunity to purchase pre-IPO shares of certain companies. The foreign company was fraudulent. Rather than using investor funds to purchase pre-IPO shares, its fund manager and the president of its purported escrow service used investor funds for personal expenses. Gomez's fraudulent sales of the foreign company's membership interests totaled \$394,000 and earned Gomez at least \$22,000 in commissions. Gomez also participated in the sale to customers of shares in a private U.S. company that, along with its wholly owned subsidiaries, produced coal. The U.S. coal company's creditors filed involuntary bankruptcy petitions against the company and several of its subsidiaries. Gomez's fraudulent sales of the coal company's stock totaled at least \$105,000 and earned him at least \$14,950

in commissions. The complaint alleges that Gomez recommended the private securities membership interests to investors without disclosing the numerous material, adverse facts relating to the foreign company, and entities affiliated with it. For example, the foreign company's fund manager had a lengthy criminal record that included multiple convictions for grand theft. In addition, the foreign company's fund managers and other affiliated persons had been named defendants in numerous lawsuits alleging fraudulent business practices. The SEC had also obtained judgments against the foreign company's fund manager and president of its purported escrow service for securities fraud. While soliciting the foreign company's investors, Gomez affirmatively misrepresented material facts by falsely representing to the investors that the foreign company's entity he was recommending actually owned, or had the right to acquire, pre-IPO shares of certain companies, and that, by investing in the foreign company's entity, each investor would acquire an ownership interest in the entity's pre-IPO shares for the companies. While soliciting for the coal company and recommending it to the investors, Gomez affirmatively misrepresented material facts by falsely representing that the company would do an IPO in the "near future," even though he knew, or was reckless in not knowing that the company did not have any specific plans for an IPO. As a result, Gomez willfully violated Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder.

The complaint also alleges that Gomez recommended the private securities to investors and failed to conduct a reasonable investigation of the foreign company and affiliated entities. Gomez's due diligence failed to uncover the numerous material, adverse facts relating to the company, related entities and principals. Gomez missed or ignored the numerous red flags that were presented to him before and during the time he was soliciting customers for the foreign company. Also, Gomez failed to conduct a reasonable investigation before recommending the coal company to the investors. Therefore, Gomez did not have a reasonable basis to recommend these companies to the investors. The complaint further alleges that prior to participating in these private securities transactions, Gomez did not provide written notice to, or receive approval from, his firm. Gomez was registered with his firm when he participated in the sale of the membership interests and shares to investors, and expected to be compensated for his participation in these transactions. (FINRA Case #2011030293503)

Frederick Juri Kotowitz (CRD #4170441, Westfield, Massachusetts) was named a respondent in a FINRA complaint alleging that on two separate occasions, while associated with a member firm, he willfully failed to timely amend his Form U4 to disclose civil judgments entered against him. The complaint alleges that Kotowitz failed to timely respond to FINRA-requests for information and documents regarding the allegation that he failed to timely amend his Form U4 to disclose unsatisfied civil judgments. The complaint also alleges that Kotowitz failed to respond to FINRA requests for testimony. (FINRA Case #2013037815302)

Lawrence Michael LaBine (CRD #1279935, Fountain Hills, Arizona) was named a respondent in a FINRA complaint alleging that while associated with a member firm, he made fraudulent misrepresentations and omissions of material fact to customers in the sale of senior debentures (Series D) issued by a company that developed software for real estate management companies. At the time of those sales, LaBine was receiving regular updates about the company's poor financial condition from senior management at the company and the company's lead investment banker. LaBine had also arranged to receive compensation and other valuable consideration from the company such as a seat on its board of directors for meeting Series D fundraising targets he had arranged with the company. This information about the company's perilous financial condition and LaBine's personal incentive to sell Series D was material to Series D investors, yet LaBine failed to disclose it to these customers when he recommended Series D to them. After the company ultimately filed for bankruptcy, LaBine made fraudulent misrepresentations and omissions of material fact to customers in connection with the sale of securities of an entity he had formed with others in an effort to acquire the assets of the company in bankruptcy. These fraudulent statements included, at least, that Series D investors who invested in the entity he formed would obtain the return of the principal they had invested in Series D. As a result of the conduct, LaBine willfully violated Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder. The complaint alleges that alternatively, in connection with sales of Series D and his entity's securities, LaBine made negligent misrepresentations and omissions of material facts to customers, and therefore failed to comply with Sections 17(a) (2) and (a)(3) of the Securities Act of 1933.

The complaint also alleges that LaBine made unsuitable sales of non-traded REITs and other alternative investments, including Series D and his entity's securities, to customers who were elderly and/or inexperienced investors. LaBine's recommendations of Series D, his entity's securities, REITs and other alternative investments to the customers were unsuitable given that the investments were illiquid, hard to value, complex and high risk. LaBine did not have a reasonable basis to believe the securities he recommended were suitable in light of the investment objectives these customers had communicated to LaBine and their overall financial circumstances, including net worth, income, risk tolerance and investment experience. Three of these customers had limited financial means and two did not meet suitability standards specified in the prospectuses for the non-traded REITs that LaBine recommended and sold to them. LaBine earned high commissions from the sales of these securities to his customers. (FINRA Case #2009019605401)

Meyers Associates, L.P. (CRD #34171, New York, New York), George Edward Johnson (CRD #2245802, Chicago, Illinois), Joseph Gregory Mahalick (CRD #5563167, Chicago, Illinois) and Christopher Paul Wynne (CRD #4055280, Chicago, Illinois) were named respondents in a FINRA complaint alleging that Johnson manipulated the market for a common stock by soliciting certain customers to buy, while soliciting other customers to sell, the stock at increasingly higher and artificially inflated prices, frequently effecting matched orders among his own customers, in willful violation of Section 10(b) of the Securities Exchange

Act of 1934 and Rule 10b-5 thereunder. The complaint alleges that Johnson and Wynne sent member firm customers third-party research and sales materials concerning the stock that were riddled with misleading, exaggerated and unsupported claims, and failed to disclose material information. The complaint also alleges that Johnson solicited customers to purchase shares of a stock while failing to disclose that he was simultaneously selling his and his wife's personal holdings of the stock. By knowingly, or at least recklessly, failing to disclose this material conflict of interest, Johnson willfully violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

The complaint further alleges that Johnson disclosed to his customers confidential material nonpublic information concerning a prospective offering of shares of a stock without the requisite permission from his firm and without an agreement from the customer to keep the information confidential and refrain from trading shares of the stock until the information has been disclosed publicly. In addition, the complaint alleges that Johnson, Mahalick, and Wynne intentionally misidentified the broker of record on account applications and order memoranda submitted to the firm in a surreptitious attempt to cover up Johnson's violations of state registration requirements. Moreover, the complaint alleges that the firm and Wynne failed to supervise the firm's Chicago branch office in general and Johnson in particular, by failing to review electronic correspondence, failing to supervise Johnson's stock trades, and by failing to supervise the dissemination of sales literature and research. Furthermore, the complaint alleges that the firm failed to establish and implement AML policies and procedures reasonably expected to detect and cause the reporting, if appropriate, of potentially suspicious activity relating to the manipulative trading of securities. (FINRA Case #2013035533701)

Andre Mitchell (CRD #2145891, Brooklyn, New York) was named a respondent in a FINRA complaint alleging that while dually employed by his member firm and its insurance affiliate, he converted, for his own personal use, approximately \$658 in funds given to him from an insurance customer for the purpose of paying insurance policy premiums. Mitchell's failure to apply the customer's funds to her insurance policy premiums caused the customer's policies to lapse. The complaint alleges that Mitchell failed to respond to FINRA-requests for information and documents, and to appear for testimony related to an investigation into his alleged conversion of funds from the customer. (FINRA Case #2013035618602)

Christopher Frederic Veale (CRD #2536489, Brooklyn, New York) was named a respondent in a FINRA complaint alleging that he refused to provide FINRA-requested documents, information, and on-the-record testimony in connection with an examination that focused on a review of his outside securities accounts, outside business activities and potential sales practice concerns in his customer accounts, among other matters. The examination also focused on Veale's potential violation of FINRA rules with respect to requirements to disclose certain outstanding liens and judgments on his Form U4. (FINRA Case #2015044099801)

#### **Complaint Dismissed**

FINRA issued the following complaint, which represented FINRA's initiation of a formal proceeding. The findings as to the allegations were not made, and the Hearing Officer has subsequently ordered that the complaint be dismissed.

Keith Douglass Geary (CRD #2996679) Edmond, Oklahoma (April 27, 2015) FINRA Case #2011026788801

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

SH Investment & Securities (CRD #123074) Los Angeles, California (April 17, 2015) FINRA Case #2009018662301

#### Firms Expelled for Failure to Provide Information or Keep Information Current Pursuant to FINRA Rule 9552

Meritus Financial Group, Inc. (CRD #128957) Elgin, Illinois

(April 24, 2015) FINRA Case #2015044018401

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

Kildare Capital, Inc. (CRD #45796) Berwyn, Pennsylvania (April 10, 2015)

SH Investment & Securities (CRD #123074) Los Angeles, California (April 8, 2015)

#### Firms Suspended for Failure to Provide Information or Keep Information Current 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.)

1st Bridgehouse Securities, LLC (CRD #44655) Miami, Florida (April 10, 2015)

ASG Securities, Inc. (CRD #44534) Fort Lauderdale, Florida (April 10, 2015)

Mosaic Capital Securities, LLC (CRD #106637) Sherman Oaks, California (April 10, 2015)

#### Nativeone Institutional Trading, LLC. (CRD #122430) Leonardo, New Jersey (April 10, 2015)

The Reid Group LLC (CRD #130448) New York, New York (April 10, 2015)

The Transportation Group (Securities) Limited (CRD #24329) New York, New York (April 10, 2015)

## 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.)

#### Jason Wade Cox (CRD #5792635)

Dublin, Ohio (April 13, 2015) FINRA Case #2014040740901

#### Dillon M. Edwards (CRD #6122284)

Grand Island, Nebraska (April 9, 2015) FINRA Case #2013037740401

#### Gino Arturo Fortis (CRD #4200228)

Dixon, California (April 24, 2015) FINRA Case #2014042007401

#### Herbert Andrew Hood Jr. (CRD #2857122)

Glen Ridge, New Jersey (April 17, 2015) FINRA Case #2014043519201

#### Rodney Bryan Howell (CRD #4004611)

Athens, Georgia (April 30, 2015) FINRA Case #2014042358701

#### Melissa Diana Powell (CRD #6251284)

Duncanville, Alabama (April 3, 2015) FINRA Case #2014043603801

#### Tina Lynn Reed (CRD #2617096)

Saint Albans, West Virginia (April 29, 2015) FINRA Case #2014043683601

#### Lynn Marie Schmidt (CRD #2702014)

West Dundee, Illinois (April 24, 2015) FINRA Case #2015044018401

#### Mark I. Stark (CRD #4695152)

Lockport, New York (April 27, 2015) FINRA Case #2014041782301

#### Peter Yao (CRD #4751615)

Bellevue, Washington (April 23, 2015) FINR Case #2014042113501

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

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

#### Frank E. Brickell (CRD #3257725)

Encinitas, California (April 11, 2015) FINRA Case #2005000075703

#### Rodney Preston Michel (CRD #1275392)

San Diego, California (April 10, 2015) FINRA Case #2005000075703

#### 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.)

#### Frank Carmen Aquila (CRD #1130803)

Lauderdale By the Sea, Florida (April 13, 2015) FINRA Case #2014042878401

#### Modesto Biney (CRD #6239490)

New Hope, Minnesota (April 28, 2015) FINRA Case #2014042555001

#### Kwentonius Devon Brown (CRD #6373928)

Phoenix, Arizona (April 20, 2015)

FINRA Case #2014043013201

#### Thomas Howard Caniford (CRD #1049021)

North Canton, Ohio (April 17, 2015)

FINRA Case #2014043614501

#### Andrew M. Carter (CRD #6102107)

Webster, New York (April 27, 2015)

FINRA Case #2015044533201

#### Fernando Diaz (CRD #4976918)

Chicago, Illinois (April 24, 2015)

FINRA Case #2014042941901

#### Jordan Hart (CRD #6372576)

Huntington, New York (April 20, 2015)

FINRA Case #2014042917401

#### Steven J. Hiles (CRD #2685597)

Hurst, Texas (April 27, 2015)

FINRA Case #2015044562401

#### Errol Constantine Hyde (CRD #1812079)

Miami, Florida (April 13, 2015)

FINRA Case #2014041555601

#### Dolores Marie Jones (CRD #5910079)

Casper, Wyoming (April 24, 2015)

FINRA Case #2014042442401

#### Ariana Grace Kaiser (CRD #6020881)

Chicago, Illinois (April 2, 2015)

FINRA Case #2014042390701

#### Anthony Uzoma Ogbonna (CRD #2771427)

Blue Island, Illinois (April 2, 2015)

FINRA Case #2014040437702

#### Bernard Popilevsky (CRD #5740691)

Staten Island, New York

(April 3, 2015)

FINRA Case #2014042573401

#### Christina Powers (CRD #6299654)

Saint Paul, Minnesota

(April 3, 2015)

FINRA Case #2014042680401

#### William Michael Quigley (CRD #1968265)

Seaford, New York (April 13, 2015)

FINRA Case #2014042535901

#### Michael Joseph Quinn (CRD #2333268)

San Diego, California (April 3, 2015)

FINRA Case #2014040558801

#### Robert John Sprott (CRD #3193458)

New Baltimore, Michigan

(April 13, 2015)

FINRA Case #2014043136701

#### Daniel Kunihiko Tamaki (CRD #5668108)

Long Beach, California

(April 13, 2015)

FINRA Case #2014041800701

#### Mary V. Tropeano (CRD #2012754)

Staten Island, New York

(April 10, 2015)

FINRA Case #2015044451301

# 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.)

#### Candius J. Bannister (CRD #5335832)

Sarasota, Florida (April 13, 2015) FINRA Arbitration Case #14-02361

#### Michael Sean Cain (CRD #2131358)

Griffin, Georgia (April 27, 2015) FINRA Arbitration Case #13-02456

#### John Paul Cech (CRD #2178582)

Denver, Colorado (November 20, 2014 – April 30, 2015) FINRA Arbitration Case #13-02986

#### Daniel Joseph Crowley (CRD #2013600)

New Canaan, Connecticut (February 19, 2014 – April 21, 2015) FINRA Arbitration Case #13-00285

#### Brendan Perry Frank (CRD #4544992)

Dedham, Massachusetts (April 27, 2015) FINRA Arbitration Case #14-01570

#### Peter H. Kim (CRD #3106647)

Irvine, California (April 27, 2015) FINRA Arbitration Case #14-00190

#### Jacob Steven Kracht Russo (CRD #3193997)

Bayville, New York (April 27, 2015) FINRA Arbitration Case #13-00634

#### Joshua T. Krieg (CRD #4952721)

Alexandria, Virginia (April 8, 2015) FINRA Arbitration Case #14-01242

### William Russell Makepeace IV (CRD #2377426)

Atlanta, Georgia (July 26, 2012 – April 9, 2015) FINRA Arbitration Case #11-01502

#### Donald James McBirney (CRD #1323985)

Piedmont, California (February 11, 2014 – April 17, 2015) FINRA Arbitration Case #13-01075

## FINRA Orders RBC to Pay Fine and Restitution Totaling More Than \$1.4 Million for Unsuitable Sales of Reverse Convertibles

The Financial Industry Regulatory Authority (FINRA) ordered RBC Capital Markets to pay a \$1 million fine and approximately \$434,000 in restitution to customers for supervisory failures resulting in sales of unsuitable reverse convertibles.

Brad Bennett, FINRA Executive Vice President and Chief of Enforcement, said, "Securities firms must ensure that their brokers understand the inherent risks associated with the complex products they are selling, and be able to determine if they are suitable for investors before recommending them to retail customers. When the firm establishes suitability guidelines, it must police the transactions to ensure they appropriately meet their own criteria."

Reverse convertibles are interest-bearing notes in which repayment of principal is tied to the performance of an underlying asset, such as a stock or basket of stocks. Depending on the specific terms of the reverse convertible, an investor risks sustaining a loss if the value of the underlying asset falls below a certain level at maturity or during the term of the reverse convertible. In February 2010, FINRA issued *Regulatory Notice* 10-09 specific to reverse convertibles, emphasizing the need for firms to perform a suitability analysis in connection with sales of this complex product.

FINRA found that RBC failed to have supervisory systems reasonably designed to identify transactions for supervisory review when reverse convertibles were sold to customers, in violation of FINRA's rules as well as the firm's own suitability guidelines. RBC established suitability guidelines for the sale of reverse convertibles setting specific criteria for customer investment objectives, annual income, net worth, liquid net worth and investment experience. Consequently, the firm failed to detect the sale by 99 of its registered representatives of 364 reverse convertible transactions in 218 accounts that were unsuitable for those customers. The customers incurred losses totaling at least \$1.1 million. RBC made payments to numerous customers pursuant to the settlement of a class action lawsuit; FINRA ordered restitution to the remainder of affected customers.

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

FINRA's investigation was conducted by the Enforcement Department. FINRA appreciates the assistance of the Securities and Exchange Commission's Office of Compliance, Inspections and Examinations in this matter.

#### FINRA Files Cease and Desist Order Against Avenir Financial Group, CEO Michael Clements, and Registered Representative Karim Ibrahim for Fraud Against Elderly Investors

Registered Representative Cesar Rodriguez Barred for Fraud and Improper Use of Customer Funds

The Financial Industry Regulatory Authority (FINRA) announced that Avenir Financial Group, its CEO Michael Clements, and registered representative Karim Ibrahim aka Chris Allen consented to an order halting further fraudulent sales of equity interests in the firm and promissory notes pending a hearing on fraud charges relating to the same offerings. The sales, which occurred from October 2013 to the present, were often to elderly customers of the firm, and the respondents' capital-raising practices were continuing. FINRA obtained the order based on its concern regarding ongoing customer harm and depletion of investor assets prior to the completion of a formal disciplinary proceeding against the firm and these individuals. FINRA also permanently barred registered representative Cesar Rodriguez from the securities industry for fraud and for improperly using \$77,000 of investor funds for personal expenses in a related offering.

Avenir is a New York, NY-based full-service broker-dealer. During its three-year operation as a FINRA member firm, Avenir and its branch offices have raised over \$730,000 in 16 issuances of equity or promissory notes. Most of these sales of equity and promissory notes were to elderly customers of the firm.

In its related underlying complaint, FINRA charges that Avenir, Clements and Ibrahim committed fraud in the sale of equity or promissory notes of the firm, and that Clements aided and abetted the fraud. FINRA specifically alleges that in November 2013, Avenir and Ibrahim defrauded a 92-year-old investor by failing to disclose that Avenir was in dire financial condition at the time they sold a 5 percent equity interest in the firm to him for \$250,000. FINRA alleges Ibrahim was aware of the firm's financial difficulties because his unfunded margin trading on behalf of another customer led to a \$196,000 margin call and a request by Clements for all Avenir representatives to raise money. FINRA further charges that Clements aided and abetted that fraud by instructing Ibrahim regarding the sale price and also on how he should characterize the offering. In the complaint, FINRA charges that in connection with that same sale, Avenir and Clements defrauded the same elderly investor by providing him with a misleading purchase agreement offering a 5 percent interest in the firm for \$250,000. FINRA alleges that the document was misleading because it omitted material information that a few weeks earlier, Avenir offered ownership to other investors at materially different terms; other investors paid significantly lower prices for their ownership interest and there was no basis for the changes in price. Avenir continues to face financial challenges and continues to attempt to raise revenue through equity offerings.

In addition, FINRA alleges that Avenir, through Rodriguez, defrauded six investors, many of whom are elderly, in an Avenir branch office Rodriguez owned. In its complaint, FINRA charges that Avenir, through Rodriguez, misrepresented that \$173,800 in proceeds from purchases of equity or promissory notes would be used for general operating expenses and instead, Rodriguez improperly used \$77,000 of the proceeds for personal expenses, including jewelry, shoes and toys. FINRA alleges that Clements aided and abetted this fraud because he advised Rodriguez that personal use of investor funds was acceptable.

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

Under FINRA rules, the individuals and firms named in a complaint can file a response and request a hearing before a FINRA disciplinary panel. Possible sanctions include a fine, an order to pay restitution, censure, suspension or bar from the securities industry. The issuance of a disciplinary complaint represents the initiation of a formal proceeding by FINRA, 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.