

Disciplinary and Other FINRA Actions

Firms Fined

CIM Securities, LLC ([CRD #120852](#), Centennial, Colorado)

October 3, 2018 – A Letter of Acceptance, Waiver and Consent (AWC) was issued 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 comply with its obligations to review, approve, document and supervise private securities transactions by three of its registered representatives. The findings stated that the firm approved an outside business activity of the representatives to engage in private securities transactions for compensation through that outside business activity. The representatives recommended the investment to certain of their retail customers and sold interests in a limited liability company totaling approximately \$2,500,000, and then invested those funds in a separate offering for which they received selling compensation in the form of commissions paid to the representatives by the firm. The firm was aware that the representatives might receive additional compensation in the form of expense reimbursements, future profits and an ownership interest in the limited liability company. However, the firm failed to supervise and maintain on its books and records the private securities transactions engaged in by the representatives. ([FINRA Case #2017052070001](#))

UBS Financial Services Inc. ([CRD #8174](#), Weehawken, New Jersey)

October 5, 2018 – An AWC was issued 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 it failed to report to the Trade Reporting and Compliance Engine® (TRACE®) transactions in TRACE-Eligible Agency Debt Securities and in TRACE-Eligible Securitized Products within the time permitted under FINRA Rule 6730(a). ([FINRA Case #2016050912401](#))

Lenox Financial Services, Inc. ([CRD #36379](#), New Lenox, Illinois)

October 18, 2018 – An AWC was issued in which the firm was censured and fined \$15,000. 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 make required financial interest and beneficial ownership disclosures in research reports. The findings stated that the firm published initial research reports that included a generic disclaimer that used conditional and indefinite language that failed to identify its principal's actual financial interest, or the nature of his actual financial interest, in the subject companies. The firm also provided updates to the initial research reports prepared by the

Reported for December 2018

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).

principal for clients invested in the subject companies, but failed to treat the updates as research reports and did not include any disclosures regarding the principal's financial interest in the company in those updated research reports. The findings also stated that the firm failed to disclose in research reports that it was affiliated with an investment advisor that was considered an indirect beneficial owner of the equity securities owned by clients in investment advisory accounts at the firm. The findings also included that the firm failed to prevent the principal from effecting purchases in research analyst accounts of securities of companies that were the subject of his research reports. FINRA® found that the firm failed to establish a system reasonably designed to achieve compliance with the research analyst's financial interest and beneficial ownership disclosure requirements. In addition, the firm failed to establish a supervisory system reasonably designed to achieve compliance with personal trading restrictions. ([FINRA Case #2016047929401](#))

MBSC Securities Corporation ([CRD #231](#), New York, New York)

October 18, 2018 – An AWC was issued in which the firm was censured and ordered to pay \$971,289.07, plus interest of \$242,955.64, in restitution to customers. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it failed to establish, maintain and enforce a supervisory system and Written Supervisory Procedures (WSPs) reasonably designed to monitor the transmittal of funds from customer accounts to third parties. The findings stated that third-party advisors routinely submitted requests for the payment of fees, which exceeded the amounts to which they were entitled under existing management agreements and fee schedules, and that the firm processed those requests without any review or verification. As a result, the firm disbursed \$971,289.07 from customer accounts to the advisors that exceeded the fees permitted under the management agreements. The firm had no procedures for the review of instructions, including standing instructions and standing letters of authorization, from investment advisors or other third parties purporting to act on behalf of customers, and the firm did not test and verify its procedures relating to the transmittal of funds from customers to third-party accounts. As a result, the firm could not detect patterns of misconduct involving excessive or improper transfers of funds to third parties. ([FINRA Case #2017054119401](#))

Morgan Stanley & Co. LLC ([CRD #8209](#), New York, New York)

October 18, 2018 – An AWC was issued in which the firm was censured and fined a total of \$56,000, of which \$8,000 is payable to FINRA. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it failed to take reasonable steps to establish that intermarket sweep orders (ISOs) it had routed met the definitional requirements set forth in the Securities Exchange Act of 1934 Rule 600(b)(30) of Regulation NMS primarily due to systems issues. The findings stated that as a result of the systems issues, the firm routed ISOs to multiple markets, which potentially traded through protected quotations in NMS stocks. The findings also stated that the firm failed to establish, maintain and enforce supervisory systems and written procedures reasonably

designed to prevent trade-throughs of protected quotations in NMS stocks that do not fall within an applicable exception and otherwise to achieve compliance with respect to applicable securities laws and regulations concerning Securities Exchange Act Rule 611(c) of Regulation NMS. Among other things, the firm's ISO surveillance report failed to take into account whether the order was cancelled or executed. ([FINRA Case #2014043099103](#))

Maxim Group LLC ([CRD #120708](#), New York, New York)

October 19, 2018 – An AWC was issued in which the firm was censured, fined \$65,000, ordered to pay \$167,780.49, plus interest, in restitution to customers and required to review and revise, as necessary, its systems, policies and procedures (written and otherwise) and training with respect to the sale of Unit Investment Trusts (UITs). Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it failed to establish and maintain a supervisory system, and establish, maintain and enforce WSPs, reasonably designed to detect and prevent unsuitable short-term trading in UITs. The findings stated that the firm had no procedures to address the suitability concerns raised by short-term trading in UITs. The firm also did not have any surveillance or exception reports designed to detect unsuitable short-term trading of UITs and did not provide brokers or supervisors any training on UITs. Several firm representatives recommended and effected short-term trades of UITs in their customers' accounts. These representatives repeatedly recommended that their customers sell their UIT positions less than one year after purchase. In addition, on several occasions, these representatives recommended that their customers use the proceeds from the short-term sale of a UIT to purchase another UIT with identical investment objectives. As a result of this trading, customers paid excess sales charges in the amount of approximately \$167,780.49. ([FINRA Case #2016047630702](#))

Avalon Investment & Securities Group, Inc. ([CRD #6281](#), Muscle Shoals, Alabama)

October 25, 2018 – An AWC was issued in which the firm was censured, fined \$12,000, ordered to pay \$1,515, plus interest, in restitution to customers and required to retain an independent consultant to conduct a comprehensive review of the adequacy of the firm's policies, systems and procedures (written and otherwise) and training relating to the violations identified in the AWC. 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 establish, maintain and enforce a supervisory system and WSPs reasonably designed to ensure that its registered representatives' recommendations of variable annuities complied with applicable securities laws and regulations, and FINRA rules. The findings stated that the firm incorrectly believed it had limited responsibility for supervising the sales of variable annuities for suitability because it did not hold the annuities directly. In addition, the firm failed to implement any surveillance system to determine if its representatives had rates of variable annuity exchanges that raised for review whether such rates of exchange may be inappropriate. The findings also stated that the firm failed to establish, maintain

and enforce a supervisory system and WSPs reasonably designed to ensure suitability of its representatives' recommendation of mutual fund share classes and the proper application of mutual fund sales breakpoint levels. A review of 11 household account files revealed that two household accounts were not given the appropriate sales breakpoint, totaling \$1,515.00, for their mutual fund investments. The findings also included that the firm failed to properly register a location as an Office of Supervisory Jurisdiction (OSJ) and nine locations as branch offices. ([FINRA Case #2016047823901](#))

Investment Placement Group ([CRD #14458](#), San Diego, California)

October 26, 2018 – An AWC was issued in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it made payments of approximately \$3.85 million in commissions earned by registered representatives to unregistered entities instead of directly to the representatives. The findings stated that each representative was a co-owner of the entity to which the firm paid the commissions. ([FINRA Case #2013039590801](#))

Ascensus Financial Services, LLC. ([CRD #147257](#), Dresher, Pennsylvania)

October 31, 2018 – An AWC was issued in which the firm was censured and fined \$35,000. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it conducted a securities business while failing to meet its net capital requirements. The findings stated that by not including the full value of 12b-1 fees the firm collected (and held as a receivable), it understated its non-allowable assets and, as a result, operated with a net capital deficiency of between \$1.1 million and \$2.5 million. The findings also stated that as a result of failing to properly including the full value of 12b-1 fees, the firm prepared and maintained an inaccurate general ledger and filed inaccurate quarterly Financial and Operational Combined Uniform Single (FOCUS) reports. ([FINRA Case #2017052209901](#))

Firms Sanctioned

J.P. Morgan Securities LLC ([CRD #79](#), New York, New York)

October 18, 2018 – An AWC was issued in which the firm was censured and required to certify in writing to FINRA that it has engaged in a risk-based review of a client-facing third-party vendors and has corrected any issues detected and established and implemented systems, policies and procedures (written or otherwise) that are reasonably designed to achieve compliance with the applicable FINRA and NASD rules. The firm paid total restitution of \$4,620,140 to impacted customers. Based on several factors, FINRA has determined not to impose a monetary sanction in this matter. Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it failed to establish and maintain a system and procedures reasonably designed to monitor and evaluate the performance of the vendor that handled on the firm's behalf the

automated realignment of portfolio assets in certain customer accounts invested in mutual funds to the model selected by the customer, and the calculation of fees charged to wealth management customers. The findings stated that the firm discovered that the vendor was not rebalancing certain accounts and that upgrades by the vendor caused accounts to not be rebalanced at the appropriate time. Similarly, the vendor converted to a new billing platform, and because the firm neither conducted testing after technology changes nor had any other supervisory procedures in place, multiple billing errors went undetected. Because the firm failed to monitor how its vendor calculated these fees and rebates, approximately \$3.1 million in erroneous fees were assessed in more than 150,000 accounts. ([FINRA Case #2017053493101](#))

D.A. Davidson & Co. ([CRD #199](#), Great Falls, Montana)

October 30, 2018 – An AWC was issued in which the firm was censured and required to provide FINRA with a plan to remediate eligible customers who qualified for, but did not receive, the applicable mutual fund sales-charge waiver. As part of this settlement, the firm agrees to pay restitution to eligible customers, which is estimated to total \$447,000 (i.e., the amount eligible customers were overcharged, inclusive of interest). Without admitting or denying the findings, the firm consented to the sanctions and to the entry of findings that it disadvantaged certain retirement plan and charitable organization customers that were eligible to purchase Class A shares in certain mutual funds without a front-end sales charge. The findings stated that these eligible customers were instead sold Class A shares with a front-end sales charge, or Class B or C shares with back-end sales charges and higher ongoing fees and expenses. These sales disadvantaged eligible customers by causing them to pay higher fees than they were actually required to pay. The findings also stated that the firm failed to reasonably supervise the application of sales-charge waivers to eligible mutual fund sales. The firm relied on its financial advisors to determine the applicability of sales-charge waivers, but failed to maintain adequate written policies or procedures to assist financial advisors in making this determination. In addition, the firm failed to adequately notify and train its financial advisors regarding the availability of mutual fund sales-charge waivers for eligible customers. The firm failed to adopt adequate controls to detect instances in which they did not provide sales-charge waivers to eligible customers in connection with their mutual fund purchases. As a result, the firm estimates that eligible customers were overcharged by approximately \$384,214 for mutual fund purchases made since January 1, 2011. ([FINRA Case #2016050260301](#))

Individuals Barred

Brent Morgan Porges ([CRD #4002626](#), Garden City, New York)

March 11, 2018 – Porges withdrew his appeal of an OHO decision issued on July 31, 2017. Porges was barred from association with any FINRA member in all capacities. The sanction was based on findings that Porges, as his member firm's chief operating officer (COO)

and minority owner, failed to establish, maintain and enforce a reasonable supervisory system at the firm to prevent excessive trading and churning in customer accounts by firm registered representatives. The findings stated that Porges was aware of red flags suggesting that certain representatives were, or might be, excessively trading customer accounts. Porges did not properly address those red flags and failed to take any meaningful measures to ensure that the representatives complied with applicable laws, regulations and rules regarding excessive trading. The most glaring red flag was the trading itself, all of it carried out openly by four representatives, with all of the trading details reflected in the firm's books and records. There were more than 9,000 trades in the customers' accounts with total costs of just under \$6 million, and the overwhelming majority of the trades were marked as solicited by these representatives. The turnover rates in the accounts combined with the cost-to-equity ratios in the accounts made it highly unlikely that the customers would realize any profits on the trading in their accounts, even if the trading was otherwise successful in generating gains. In the customer accounts analyzed by FINRA, the customers incurred total losses of more than \$9 million. Not one of the accounts realized overall profits from the trading. On the other hand, the firm and the four representatives earned millions of dollars in commissions from the trading. The findings also stated that Porges gave false testimony during a FINRA on-the-record interview regarding the recording of telephone calls between the firm and its customers when he knew that the firm had utilized a variety of recording systems to record telephone calls with customers. ([FINRA Case #2015044823501](#))

Jon Richard Pariser ([CRD #2755015](#), Pacific Grove, California)

October 4, 2018 – An AWC was issued in which Pariser was barred from association with any FINRA member in all capacities. Without admitting or denying the findings, Pariser consented to the sanction and to the entry of findings that he refused to provide FINRA with requested documents and information related to allegations that he referred some of his customers to an individual who was not registered and who may have recommended or sold potentially unsuitable securities to them. ([FINRA Case #2018058207401](#))

Kevin Peter Smith ([CRD #1363302](#), Edina, Minnesota)

October 8, 2018 – An AWC was issued in which Smith was barred from association with any FINRA member in all capacities. Without admitting or denying the findings, Smith consented to the sanction and to the entry of findings that he refused to appear and provide FINRA on-the-record testimony in connection with its investigation concerning his termination from his member firm, certain actions he took while serving as trustee for the trust of a family member and the firm client, and discretionary trading in a firm client's account. ([FINRA Case #2016050705401](#))

Wilfred Rodriguez Jr. ([CRD #2504369](#), Deerfield Beach, Florida)

October 9, 2018 – An AWC was issued in which Rodriguez was barred from association with any FINRA member in all capacities. Without admitting or denying the findings, Rodriguez consented to the sanction and to the entry of findings that he failed to provide FINRA with requested documents and information in connection with its investigation into allegations that he, among other things, converted funds of foreign customers and concealed it by falsifying account documents with inflated account values. ([FINRA Case #2018059379401](#))

John Halsey Buck III ([CRD #34383](#), Beverly Farms, Massachusetts)

October 11, 2018 – An AWC was issued in which Buck was barred from association with any FINRA member in all capacities. Without admitting or denying the findings, Buck consented to the sanction and to the entry of findings that he failed to provide FINRA with requested documents and information in connection with its investigation concerning his potential involvement in certain unapproved private securities transactions. ([FINRA Case #2018057629701](#))

Larry Joe Templin ([CRD #2440316](#), Salado, Texas)

October 11, 2018 – An AWC was issued in which Templin was barred from association with any FINRA member in all capacities. Without admitting or denying the findings, Templin consented to the sanction and to the entry of findings that he refused to provide information requested by FINRA in connection with its investigation of his alleged bank fraud. ([FINRA Case #2018058711201](#))

Chris Raymond Kubiak ([CRD #1527367](#), Milwaukee, Wisconsin)

October 18, 2018 – An AWC was issued in which Kubiak was barred from association with any FINRA member in all capacities. Without admitting or denying the findings, Kubiak consented to the sanction and to the entry of findings that he converted customer funds. The findings stated that four customers, including three seniors, gave funds to Kubiak totaling approximately \$270,000 to invest on their behalf. Kubiak, however, deposited the funds into his personal bank account and then used them for his own personal use, including to gamble and to pay for personal medical bills. ([FINRA Case #2018059861801](#))

Tracy Michelle Lund ([CRD #4927549](#), North Plains, Oregon)

October 19, 2018 – An AWC was issued in which Lund was barred from association with any FINRA member in all capacities. Without admitting or denying the findings, Lund consented to the sanction and to the entry of findings that she refused to provide information requested by FINRA in connection with its investigation into the conduct disclosed by her former member firm in an amended Uniform Termination Notice for Securities Industry Registration (Form U5) in which the firm reported that Lund was under internal review for the apparent movement of personal funds from her to a client brokerage account for which she was the broker of record. ([FINRA Case #2018058860601](#))

John Scott Simoncic ([CRD #1062932](#), Carlsbad, California)

October 24, 2018 – An AWC was issued in which Simoncic was barred from association with any FINRA member in all capacities. Without admitting or denying the findings, Simoncic consented to the sanction and to the entry of findings that he willfully violated Section 10(b) of the Securities Exchange Act of 1934, and Rule 10b-5 promulgated thereunder, and violated FINRA Rules 2020, 2111 and 2010 by churning customer accounts, engaging in excessive trading and making unsuitable recommendations involving transactions in non-traditional exchange traded funds (ETFs) in accounts held by two customers, one of whom was a senior investor. The findings stated that Simoncic exercised de facto control over and made all trading decisions for investments in the senior investor's Individual Retirement Account (IRA) and the other customer's four accounts, including which specific securities to buy and sell, the quantity of securities to buy and sell and when to buy and sell the securities. The customers relied completely upon Simoncic to manage their accounts and to make all investment decisions on their behalf. Simoncic charged these customers commissions and other fees totaling approximately \$79,000. In just over a two-year period, Simoncic earned approximately 88 percent of his total gross commissions solely from these customers' accounts. Simoncic earned almost \$77,000 in commissions while his customers' losses exceeded \$105,000. Simoncic's level of trading in these accounts, which he controlled, was inconsistent with the customers' investment objectives and their financial situations, and he engaged in this trading with reckless disregard for their interests. Simoncic also did not fully appreciate or understand the unique features and risks associated with trading non-traditional ETFs in the customers' accounts, particularly the risks associated with the daily reset of the securities. ([FINRA Case #2017054755205](#))

Atiq Urrehman Khan ([CRD #4727750](#), Gardena, California)

October 25, 2018 – An Office of Hearing Officers (OHO) decision became final in which Khan was barred from associating with any FINRA member in all capacities. The sanction was based on findings that Khan failed to timely respond to FINRA-requested on-the-record testimony in connection with its investigation into his undisclosed solicitation of general securities and whether he improperly inserted himself as the beneficiary of a customer's insurance policy. The findings stated that subsequently, Khan completely failed to respond to FINRA's requests for documents. ([FINRA Case #2016052504602](#))

Judith Ann Bufis ([CRD #1070648](#), East Brunswick, New Jersey)

October 29, 2018 – An AWC was issued in which Bufis was barred from association with any FINRA member in all capacities. Without admitting or denying the findings, Bufis consented to the sanction and to the entry of findings that she failed to provide documents and information requested by FINRA in connection with potential private securities transactions. ([FINRA Case #2016049989802](#))

Bruce Arnold Plyer ([CRD #1666324](#), Summit, New Jersey)

October 29, 2018 – An AWC was issued in which Plyer was barred from association with any FINRA member in all capacities. Without admitting or denying the findings, Plyer consented to the sanction and to the entry of findings that he failed to appear and provide FINRA with requested on-the-record testimony in connection with an investigation concerning allegations that he engaged in unauthorized trading in customer accounts. ([FINRA Case #2016052649001](#))

David Carl Ferwerda ([CRD #832431](#), Grand Rapids, Michigan)

October 30, 2018 – An AWC was issued in which Ferwerda was barred from association with any FINRA member in all capacities. Without admitting or denying the findings, Ferwerda consented to the sanction and to the entry of findings that he failed to provide FINRA with requested documents and information in connection with its review of his participation in sales of notes related to a group of unregistered investment companies and investments in another company. ([FINRA Case #2018057887801](#))

John Paul Angelone ([CRD #2792191](#), Locust Valley, New York)

October 31, 2018 – An AWC was issued in which Angelone was barred from association with any FINRA member in all capacities. Without admitting or denying the findings, Angelone consented to the sanction and to the entry of findings that he refused to appear for FINRA on-the-record testimony in connection with potential violations of Section 5 of the Securities Act of 1933. ([FINRA Case #2017052907902](#))

Jonathan Scott Freehill ([CRD #6073552](#), Houston, Texas)

October 31, 2018 – An AWC was issued in which Freehill was barred from association with any FINRA member in all capacities. Without admitting or denying the findings, Freehill consented to the sanction and to the entry of findings that he converted \$5,000 from a customer's account at his member firm. The findings stated that prior to their divorce, Freehill was the broker of record for his wife's IRA at the firm. Without her knowledge or authorization, Freehill made premature distributions from his wife's IRA and transferred the funds to a third party to pay a debt for his brother. ([FINRA Case #2016052303801](#))

Individuals Suspended

Tol Ho ([CRD #3137681](#), New York, New York)

October 2, 2018 – An AWC was issued in which Ho was assessed a deferred fine of \$7,000 and suspended from association with any FINRA member in all capacities for two months. Without admitting or denying the findings, Ho consented to the sanctions and to the entry of findings that he caused his member firm's books and records to be inaccurate by failing to record bond purchases in its order management system. The findings stated that because Ho failed to record the trades, the firm was not aware that he had exceeded his firm-imposed risk limits.

The suspension was in effect from October 15, 2018, through December 14, 2018. ([FINRA Case #2015046918601](#))

John Wendel Gilbert (CRD #220393, Houston, Texas)

October 4, 2018 – An AWC was issued in which Gilbert was assessed a deferred fine of \$7,500, suspended from association with any FINRA member in all capacities for 45 days and ordered to attend and satisfactorily complete 10 hours of continuing education. Without admitting or denying the findings, Gilbert consented to the sanctions and to the entry of findings that he made unsuitable recommendations to his elderly, widowed and unemployed customer who was living on a fixed income. The findings stated that due to declining health, the customer appointed her daughter as her power of attorney; however, Gilbert did not take reasonable steps to properly consider changes to his customer's investment profile. Gilbert continued to recommend that his customer hold concentrated positions in the energy sector, some of which were speculative, despite the risks presented by the volatility of the energy market and high level of concentration. Gilbert's customer realized losses in her account, and she complained to the firm. The firm settled the customer's complaint and paid her compensation totaling \$158,192.

The suspension was in effect from October 15, 2018, through November 28, 2018. ([FINRA Case #2016050134501](#))

Daniel K. Kittner (CRD #4377296, Queen Creek, Arizona)

October 4, 2018 – An AWC was issued in which Kittner was assessed a deferred fine of \$7,500 and suspended from association with any FINRA member in all capacities for 60 days. Without admitting or denying the findings, Kittner consented to the sanctions and to the entry of findings that he exercised discretion in the accounts of two customers, a married couple, without written authorization from the customers and without acceptance of the accounts as discretionary by his member firm. The findings stated that Kittner effected approximately 700 trades in six separate accounts belonging to the customers without contacting them prior to each trade to confirm the details of the trade. In addition, the firm's WSPs did not permit registered representatives to use discretion. The findings also stated that Kittner inaccurately failed to mark the orders as discretionary, thereby causing the firm to make and preserve inaccurate order tickets.

The suspension was in effect from October 15, 2018, through December 13, 2018. ([FINRA Case #2017056550601](#))

Wesley Justin Foltz (CRD #4617507, Alexandria, Louisiana)

October 5, 2018 – An AWC was issued in which Foltz was assessed a deferred fine of \$7,500, suspended from association with any FINRA member in all capacities for 30 days and required to satisfactorily complete 10 hours of continuing education concerning the sale of variable annuities within 90 days of re-association with a member firm. Without admitting

or denying the findings, Foltz consented to the sanctions and to the entry of findings that he recommended certain L-share variable annuities to his customers without a reasonable basis for believing that the recommendations were suitable. The findings stated that Foltz recommended that his customers buy higher-cost share class contracts and higher-cost riders without understanding the costs and benefits of these products. As a result of Foltz's lack of understanding of the L-share variable annuity, he was unable to inform customers of the various features of the products he was recommending, including the potential surrender charges, expenses, and charges and feature of riders.

The suspension was in effect from October 15, 2018, through November 13, 2018. ([FINRA Case #2016048637601](#))

Sidney Joseph Dufresne Jr. ([CRD #2471091](#), River Ridge, Louisiana)

October 9, 2018 – An AWC was issued in which Dufresne was fined \$5,000 and suspended from association with any FINRA member in all capacities for three months. Without admitting or denying the findings, Dufresne consented to the sanctions and to the entry of findings that he sold more than \$1.6 million in unapproved fixed indexed annuities to five purchasers, two of whom were his member firm's customers, and earned more than \$114,000 in commissions for these insurance transactions. The findings stated that Dufresne sought and received the firm's approval to engage in insurance brokerage as an outside business activity. However, the firm prohibited the sale of fixed indexed annuities as an outside business activity unless they were sold through and approved by the firm. Dufresne applied with a third-party insurance company to become an independent agent, and he began selling two different fixed indexed annuities that had not been approved by the firm.

The suspension is in effect from November 5, 2018, through February 4, 2019. ([FINRA Case #2017055351801](#))

Jose Luis Paula ([CRD #5722894](#), Tampa, Florida)

October 9, 2018 – An AWC was issued in which Paula was assessed a deferred fine of \$5,000 and suspended from association with any FINRA member in all capacities for 30 business days. Without admitting or denying the findings, Paula consented to the sanctions and to the entry of findings that he attempted to settle a customer complaint related to losses in the customer's account by agreeing to refund the total principal associated with trades without informing or obtaining authorization from his member firm. The findings stated that Paula issued the customer a check for \$10,000 as the first installment of the settlement. Paula asked the customer not to cash the check until he could fund his checking account, but never actually funded his checking account or made any other attempts to repay the customer for the losses in her account.

The suspension was in effect from October 15, 2018, through November 26, 2018. ([FINRA Case #2017055832401](#))

John-Aaron Lenhart ([CRD #5989046](#), Dana Point, California)

October 10, 2018 – An AWC was issued in which Lenhart was assessed a deferred fine of \$7,500 and suspended from association with any FINRA member in all capacities for five months. Without admitting or denying the findings, Lenhart consented to the sanctions and to the entry of findings that he borrowed a total of \$44,700 from customers of his member firm without providing prior notice to, and receiving written approval from, the firm. The findings stated that Lenhart also made misrepresentations to the firm regarding the loans in annual compliance questionnaires and during the firm’s internal investigation.

The suspension is in effect from October 15, 2018, through March 14, 2019. ([FINRA Case #2017053139401](#))

Steven John Sosnowski ([CRD #3051632](#), San Jose, California)

October 11, 2018 – An AWC was issued in which Sosnowski was assessed a deferred fine of \$5,000 and suspended from association with any FINRA member in all capacities for five months. Without admitting or denying the findings, Sosnowski consented to the sanctions and to the entry of findings that he forged a customer’s signature to open an insurance policy in the customer’s name without the customer’s knowledge or permission. The findings stated that in order to qualify for travel and other programs offered by his member firm’s insurance affiliate, Sosnowski forged a relative’s signature to open a term life insurance policy without the relative’s knowledge or authorization. Sosnowski made the initial payment for the policy himself, and listed the customer’s mother as the beneficiary, without the customer’s knowledge. The findings also stated that upon later learning of the policy’s existence when the customer received a bill for a premium payment, the customer complained to the firm. After the firm brought the customer’s complaint to Sosnowski’s attention, he cancelled the policy and informed the firm that he had forged the customer’s signature to open the policy.

The suspension is in effect from October 15, 2018, through March 14, 2019. ([FINRA Case #2018057468601](#))

Christopher Michael Herrmann ([CRD #4123657](#), Greenwood, Indiana)

October 19, 2018 – An AWC was issued in which Herrmann was assessed a deferred fine of \$10,000 and suspended from association with any FINRA member in all capacities for nine months. Without admitting or denying the findings, Herrmann consented to the sanctions and to the entry of findings that he recommended annuity transactions to retired and elderly customers while failing to facilitate the transactions as a tax-free 1035 exchange, which resulted in significant tax liabilities to the customers. The findings stated that Herrmann’s recommendations were not suitable for his customers, because the recommendations did not take into account his customers’ tax status and the tax consequences of the transactions he recommended to the customers. The findings also stated that Herrmann circumvented his member firm’s compliance procedures, and thereby its supervision of the annuity switch transactions, by failing to facilitate the transactions as tax-free 1035 exchanges and providing false information on annuity-related documents.

When Herrmann recommended and affected the annuity transactions, he circumvented his firm's procedures and supervision by failing to submit switch disclosure forms for those transactions, notwithstanding his recommendations and that the purchases of new annuities were funded with the proceeds of the liquidation of prior annuities just weeks before. Herrmann further concealed these switch transactions from his firm's supervisory review by providing inaccurate information on the documents he submitted to the annuity companies, which his firm also received, in order to effectuate the purchase and sale transactions.

The suspension is in effect from November 5, 2018, through August 4, 2019. ([FINRA Case #2016051817601](#))

Eric Howard Kunis ([CRD #2361728](#), South Setauket, New York)

October 19, 2018 – An AWC was issued in which Kunis was fined of \$2,500, suspended from association with any FINRA member in all capacities for two months and ordered to pay \$2,189.78, plus interest, in restitution to the customers. Without admitting or denying the findings, Kunis consented to the sanctions and to the entry of findings that he engaged in an unsuitable pattern of short-term trading of UITs in connection with customer accounts. The findings stated that Kunis repeatedly recommended that his customers purchase UITs and then sell these products well before their maturity dates. Kunis' recommendations caused his customers to incur unnecessary sales charges, and were unsuitable in view of the frequency and cost of the transactions.

The suspension is in effect from November 19, 2018, through January 18, 2019. ([FINRA Case #2016047630701](#))

Kevin Robert Loud ([CRD #5553835](#), Phoenix, Arizona)

October 24, 2018 – An AWC was issued in which Loud was fined \$7,500 and suspended from association with any FINRA member in all capacities for four months. Without admitting or denying the findings, Loud consented to the sanctions and to the entry of findings that he willfully failed to timely amend his Uniform Application for Securities Industry Registration or Transfer (Form U4) to disclose an outstanding tax lien. The findings stated that Loud also failed to disclose his participation in an outside business activity to his member firm. Loud worked for, and was an officer of, a development-stage company where he solicited individuals who were not customers of his firm to invest in an offering for the company. Along with these solicitations, Loud circulated an offering memorandum for his company that identified him as the company's chief financial officer and directed that all subscription documents and payments should be made to him at the company's business address. Although Loud's solicitations did not result in direct investments, he did assist in obtaining stock certificates for several of the company's investors. Loud also advised the company on strategy and budgeting-related issues. The findings also stated that Loud falsely indicated on his firm's annual compliance conference questionnaire that he had not participated in any outside business activities.

The suspension is in effect from November 19, 2018, through March 18, 2019. ([FINRA Case #2015047201701](#))

David Raymond Colflesh (CRD #1184117, Tarkio, Missouri)

October 26, 2018 – An AWC was issued in which Colflesh was suspended from association with any FINRA member in all capacities for 18 months and ordered to pay \$34,546.98, plus interest, in deferred disgorgement of commissions received. Without admitting or denying the findings, Colflesh consented to the sanctions and to the entry of findings that he recommended nondiversified mutual funds to customers without having a reasonable basis for believing that they were suitable for at least some of those customers, as he had not adequately educated himself about the funds and did not understand the funds' complexity and potential risks. The findings stated that Colflesh began recommending the funds to his customers, primarily on the basis of the funds' yield, which he thought could exceed ten percent. Those customers made approximately 250 purchases of the funds totaling approximately \$4.5 million, and Colflesh earned commissions of \$34,546.98 from those transactions. Colflesh recommended the funds to customers for whom they were not suitable, given his recommended concentration levels, the customers' expressed investment objectives, tolerances for risk and other factors.

The suspension is in effect from November 5, 2018, through May 4, 2020. ([FINRA Case #2016050685101](#))

W. Michael Rosenberg (CRD #1617639, Manhattan Beach, California)

October 29, 2018 – An AWC was issued in which Rosenberg was fined \$25,000 and suspended from association with any FINRA member in all capacities for 20 business days. Without admitting or denying the findings, Rosenberg consented to the sanctions and to the entry of findings that he failed to disclose in writing to his member firm that he had brokerage accounts that he held away from the firm.

The suspension is in effect from January 14, 2019, through February 11, 2019. ([FINRA Case #2016049085801](#))

Michael Eugene Heath (CRD #2708198, Ladera Ranch, California)

October 30, 2018 – An AWC was issued in which Heath was assessed a deferred fine of \$12,500 and suspended from association with any FINRA member in all capacities for 45 days. Without admitting or denying the findings, Heath consented to the sanctions and to the entry of findings that he regularly communicated with his customers through an unapproved, personal email account about business of his member firm and circumvented its supervision of those communications. The findings stated that Heath sent account documents, discussed account performances and discussed specific investments with his firm customers in these emails. By using his unapproved, personal email account, Heath caused his firm to fail to maintain all business-related communications. The findings also

stated that Heath failed to comply with FINRA rules on communications with the public by creating account performance summaries that he regularly used in face-to-face meetings with clients that failed to provide a sound basis for customers to evaluate the facts regarding the securities described therein.

The suspension is in effect from November 19, 2018, through January 2, 2019. ([FINRA Case #2016048936601](#))

James Edward Barnes (CRD #5904416, Corona, California)

October 31, 2018 – An AWC was issued in which Barnes was assessed a deferred fine of \$5,000 and suspended from association with any FINRA member in all capacities for one month. Without admitting or denying the findings, Barnes consented to the sanctions and to the entry of findings that he engaged in soliciting the sales of variable annuities from customers of his member firm while associated with the firm, but not registered with FINRA. The findings stated that a registered representative of the firm had signed his name on the variable annuity application even though he had not substantially participated in the sale of the annuity. The representative received commissions in the approximate amount of \$13,760 from the sale and shared those commissions with Barnes. Barnes received compensation in the approximate amount of \$5,504 in connection with the sales of the variable annuities.

The suspension was in effect from November 5, 2018, through December 4, 2018. ([FINRA Case #2018057055301](#))

Complaints Filed

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

Tyler James Woodward (CRD #6032935, Colorado Springs, Colorado)

October 4, 2018 – Woodward was named a respondent in a FINRA complaint alleging that he failed to provide information and documents, and to appear and provide sworn testimony requested by FINRA during the course of an investigation into a complaint made by a former customer of his that alleged serious violations of FINRA rules, including conversion. The complaint alleges that Woodward persuaded the customer to transfer

more than \$117,000 from his account at Woodward's member firm to a brokerage account at another firm, and then to a bank account, and then finally to a company that Woodward created and which was not a registered broker-dealer or investment adviser firm. In addition, the customer asserted that Woodward obtained electronic access to his brokerage account and controlled transactions in that account. ([FINRA Case #2018058866401](#))

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 National Adjudicatory Council (NAC) has subsequently ordered that the complaint be dismissed

Stanley Clayton Niekras (CRD #2417486)

Watertown, New York

(October 4, 2018)

FINRA Case #2013037401001

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.)

William Charles Gerhauer (CRD #2060354)
Tampa, Florida
(May 15, 1999 - October 16, 2018)
FINRA Case #C07960014

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.)

Gregory Adamo (CRD #1192587)
Morristown, New Jersey
(October 22, 2018)
FINRA Case #2017053574001

John Patrick Drill (CRD #2142227)
Madison, Wisconsin
(October 1, 2018)
FINRA Case #2018058116601

Daniel John Flores (CRD #2908027)
Appleton, Wisconsin
(October 30, 2018)
FINRA Case #2018058020401

Jose Giraldo (CRD #5429476)
Chula Vista, California
(August 27, 2018 - October 19, 2018)
FINRA Case # 2018058059201

Donald Leon Heitz (CRD #5339996)
Navarre, Florida
(October 1, 2018)
FINRA Case #2018058101101

Gretchen Elisabeth Jenkins (CRD #4779062)
North Chili, New York
(October 5, 2018)
FINRA Case #2018057783001

Joshua Dean Krize (CRD #5295965)
Mesa, Arizona
(October 22, 2018)
FINRA Case #2018058263701

Francine Ann Lanaia (CRD #1415689)
Fort Salonga, New York
(October 29, 2018)
FINRA Case #2017052475701

Daniel Moore (CRD #7004393)
Coppell, Texas
(October 22, 2018)
FINRA Case #2018058641401

Shawn David Palmer (CRD #4372916)
Monroe, Washington
(October 9, 2018)
FINRA Case #2018058120001

Somning Pheth (CRD #6290300)
Fife, Washington
(October 1, 2018)
FINRA Case #2018058520001

Mark Joseph Sachse (CRD #5155260)
Overland Park, Kansas
(October 22, 2018)
FINRA Case #2018057939001

Phillip Albert Schreiner (CRD #4742497)
San Antonio, Texas
(October 9, 2018)
FINRA Case #2017055752901

Margaret Brinck Sterr (CRD #1666743)
Grosse Pointe, Michigan
(October 15, 2018)
FINRA Case #2017055682001

Charles Suhar (CRD #4518591)

Mentor, Ohio
(October 1, 2018)
FINRA Case #2018058029101

Zachary Scott Swords (CRD #5092004)

Ponca City, Oklahoma
(October 1, 2018)
FINRA Case #2018057827701

**Francisco Javier Valenzuela
(CRD #2786970)**

Tucson, Arizona
(October 23, 2018)
FINRA Case #2018057266701

**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.)

Tabor Alan Barrick (CRD #4761986)

Flagstaff, Arizona
(October 23, 2018)
FINRA Case #2018057648401

Jeffrey Robert Conklin (CRD #5749380)

Broadview Heights, Ohio
(October 19, 2018)
FINRA Case #2018059440301

**Anthony Matthew Cottone
(CRD #4394861)**

Boynton Beach, Florida
(October 1, 2018)
FINRA Case #2018059266101

Sierra Alexandria Crocker (CRD #6725624)

Jacksonville, Florida
(October 5, 2018)
FINRA Case #2018057698601

Peter Jonathan Fidelman (CRD #6084734)

New York, New York
(October 29, 2018)
FINRA Case #2018057869301

Frantz Gaston Jr. (CRD #5367652)

Hackettstown, New Jersey
(October 12, 2018)
FINRA Case #2018057604501

Peter Frank Gomez (CRD #6472346)

San Antonio, Texas
(October 22, 2018)
FINRA Case #2018058563901

**Michael Valdovino Guillory
(CRD #2916961)**

San Francisco, California
(October 25, 2018)
FINRA Case #2017054755204

Dionna Nicole Harris (CRD #6236081)

Downingtown, Pennsylvania
(October 12, 2018)
FINRA Case #2018058437401

John David Hartigan (CRD #1501624)

Chicago, Illinois
(October 26, 2018)
FINRA Case #2018058394601

Omar K. Henry (CRD #5751648)

Clifton, New Jersey
(October 22, 2018)
FINRA Case #2018058516001

Erin Lindsay King (CRD #6774924)

Denton, Texas
(October 9, 2018)
FINRA Case #2018059044401

Christopher Joseph Lossing (CRD #5798906)

Henderson, Nevada
(October 12, 2018)
FINRA Case #2018059158601

Randolph B. McNeill (CRD #4312991)

Dayton, New Jersey
(October 19, 2018)
FINRA Case #2018059926301

Richard Vincent Minichino (CRD #5760862)

Peekskill, New York
(October 11, 2018)
FINRA Case #2018057502401

Timothy Harry Nicholl (CRD #1206293)

Baltimore, Maryland
(October 5, 2018)
FINRA Case #2018058556701

Eric Ritchie Olson (CRD #5961022)

Bellevue, Washington
(October 29, 2018)
FINRA Case #2017056582001

Paul Ulises Perez (CRD #2411198)

Davie, Florida
(October 26, 2018)
FINRA Case #2018058449701

Justin Alan Simon (CRD #6138143)

Virginia, Minnesota
(October 19, 2018)
FINRA Case #2018059233501

Brandon Eugene Strawn (CRD #6789390)

El Paso, Texas
(October 9, 2018)
FINRA Case #2018058919701

Daniel Erich Sullivan (CRD #4411410)

Westhampton Beach, New York
(October 26, 2018)
FINRA Case #2018058447901

Sean Russell Tinsley (CRD #5139757)

Austin, Texas
(October 5, 2018)
FINRA Case #2018058958301

Peter Clarence Vaillancourt Jr.

(CRD #6033087)
Hillsborough, New Hampshire
(October 19, 2018)
FINRA Case #2018057796001

Vance P. Wilson (CRD #4785139)

West Valley City, Utah
(October 29, 2018)
FINRA Case #2018058447501

Robert Daniel Witt (CRD #2926506)

Gurnee, Illinois
(October 29, 2018)
FINRA Case #2016051737901

Daniel E. Wood (CRD #5454330)

Washington, DC
(October 9, 2018)
FINRA Case #2017054383302

Bryan Allen Wright (CRD #6003150)

Conesville, Ohio
(October 12, 2018)
FINRA Case #2018058447301

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

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

William Ferrell Albin (CRD #1744984)

Las Vegas, Nevada
(October 30, 2018)
FINRA Arbitration Case #17-00016

David Arthur Allen (CRD #2500427)

Bethel, Vermont
(October 23, 2018)
FINRA Arbitration Case #15-02744

Kean Lynn Bouplon (CRD #4034661)
Voorheesville, New York
(January 25, 2018 – October 23, 2018)
FINRA Arbitration Case #17-01758

Jonathan J. Chang (CRD #5996156)
San Diego, California
(October 2, 2018)
FINRA Arbitration Case #18-00959

Michael Todd Clements (CRD #1702071)
Wellington, Florida
(October 23, 2018)
FINRA Arbitration Case #15-02744

Jeffrey Michael Johnson (CRD #5522469)
Royal Oak, Michigan
(October 26, 2018)
FINRA Arbitration Case #18-01265

David Howard Fagenson (CRD #1652012)
Palm Beach Gardens, Florida
(October 19, 2018)
FINRA Case #20180601760/ARB 180033/
Arbitration Case #17-00195

James Joseph Kelly (CRD #1813915)
Lincroft, New Jersey
(October 30, 2018)
FINRA Arbitration Case #18-00588

Andrew J. Martino (CRD #5625402)
Calabasas, California
(October 26, 2018)
FINRA Arbitration Case #18-00773

Frederick Michael Miller (CRD #1950477)
Davison, Michigan
(October 25, 2018)
FINRA Case #2018060128701/ARB180032

Cesar Omar Rodriguez (CRD #4451732)
Hanover Park, Illinois
(October 23, 2018) FINRA Arbitration Case
#15-02744

Brian Robert Roth (CRD #4607595)
Mendham, New Jersey
(September 14, 2018 - October 4, 2018)
FINRA Arbitration Case #13-00041

Jorge J. Sarria (CRD #5575483)
Miami, Florida
(October 29, 2018)
FINRA Arbitration Case #18-01455

Gregg Steven Weinstein (CRD #1937364)
New York, New York
(October 29, 2018)
FINRA Case #2018059895701/ARB180030

Mohamed R. Yassin (CRD #1673281)
Jamaica, New York
(October 29, 2018)
FINRA Arbitration Case #18-01004

PRESS RELEASE

FINRA Fines LPL \$2.75 Million for Complaint-Reporting and AML Program Failures

FINRA announced that it has fined [LPL Financial, LLC](#) \$2.75 million for complaint-reporting and AML program failures that spanned a period of more than three years.

FINRA found that LPL failed to file or amend registered representatives' Forms U4 or U5 to disclose dozens of reportable customer complaints. LPL too narrowly interpreted the requirement that a complaint contain "a claim for compensatory damages of \$5,000 or more" to be reported. LPL incorrectly construed this phrase to mean that the firm was not required to report any complaint that did not expressly request compensation, even when the customer alleged a sales practice violation that caused him or her a loss of \$5,000 or more, and the complaint, when viewed as a whole, made clear that the customer was seeking compensation.

FINRA also found that, due to an unreasonably designed AML program, LPL failed to investigate numerous attempts to gain unauthorized access to electronic systems that should have resulted in the filing of Suspicious Activity Reports (SARs). This failure stemmed primarily from the firm's use of a "fraud case chart" that provided inaccurate guidance to its AML employees concerning investigation and reporting requirements when third parties used electronic means to attempt to compromise a customer's email or brokerage account. As a result, LPL failed to file more than 400 SARs.

Susan Schroeder, FINRA Executive Vice President, Department of Enforcement, said, "This case highlights FINRA's persistent focus on ensuring that firms file with the government and with FINRA information critical to the protection of investors and the public. Forms U4 and U5 in particular serve as an essential source of information to the investing public in deciding whether to entrust their assets with a broker."

In determining the appropriate monetary sanction, FINRA considered LPL's extraordinary cooperation and undertaking to remedy its violations.

In settling this [matter](#), LPL neither admitted nor denied the charges, but consented to the entry of FINRA's findings.