Disciplinary and Other FINRA Actions

Reported for August 2012

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

Firm Expelled

Cambridge Legacy Securities L.L.C. (CRD® #103722, Dallas, Texas) submitted a Letter of Acceptance, Waiver and Consent in which the firm was expelled from FINRA® membership. Without admitting or denying the findings, the firm consented to the described sanction and to the entry of findings that it sold interests in private placements offered by affiliated companies of the firm totaling approximately $22,900,000. The findings stated that the firm sold interests in these private placements without conducting a reasonable investigation of the securities and issuers. The firm failed to create and maintain due diligence files and conduct ongoing due diligence on the companies' offerings. As a result, the firm did not have reasonable grounds to believe that the offerings were suitable for its customers. Ultimately, the offerings were unsuccessful.

The findings also stated that the companies' offerings were not registered and were sold pursuant to registration exemption Regulation D. The firm sold interests in the offerings of one of the affiliate companies in contravention of the general solicitation prohibition contained in Regulation D. In particular, the firm sold the offerings while details of the offerings were posted on the company's website. These website postings, which constituted a general solicitation, were publicly accessible and contained private placement memoranda and term sheets for the offerings. The firm knew, or should have known, that detailed information about the Regulation D offerings was publicly available.

The findings also included that the firm failed to implement and enforce a supervisory system reasonably designed to achieve compliance with applicable securities laws and regulations; the firm's written supervisory procedures (WSPs) required the firm to conduct due diligence for all private placements it sold, but it failed to conduct due diligence on the companies' offerings. (**FINRA Case #2010020844301**)

Firm Fined, Individual Sanctioned

Institutional Capital Management, Inc. (CRD #41055, Houston, Texas) and Daniel Lee Ritz Jr. (CRD #1977521, Registered Principal, Katy, Texas) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $25,000. FINRA imposed a lower fine after it considered, among other things, the firm's revenues and financial resources. Ritz was suspended from association with any FINRA member in any capacity for 18 months. In light of Ritz's financial status, no monetary sanctions have been imposed. Without admitting or denying the findings, the firm and Ritz consented to the described sanctions and to the entry of findings that Ritz held positions in securities in a pledge account as collateral for a letter of credit from a bank on which he was the guarantor. When Ritz received a collateral call on the letter of credit in the amount of $1,251,816.59, he executed a series of unfunded securities transactions that induced the firm's clearing firm to improperly extend credit to Ritz and to other firm customers, and effectively created a loan from the clearing firm. The findings stated that the trades were executed between related accounts, some of which Ritz himself held and/or controlled, structured as though there were legitimate buyers intending to fund each purchase; however, none of the purchases were funded until the last round of trades at the end of the scheme. Ritz, as the executing broker, executed each unfunded transaction internally at the firm. Ritz set the price at which the unfunded transactions were booked, and completed all of the trade tickets himself. Most of the trades were priced at or near the market at the time they were executed, so the impact on the market price, if any, was minimal. The findings also stated that the unfunded transactions effectively created a loan from the clearing firm, which cleared the initial purchase in the amount of approximately $175,000, under false pretenses. The loan allowed Ritz to partially satisfy the collateral call while retaining control and ownership of the stock in the pledge account. The findings also included that at least $40,000 in profits booked on the unfunded transactions was wired to personal accounts Ritz held at other financial institutions.

FINRA found that Ritz executed some of the transactions in the scheme between personal accounts he held and the accounts of other firm customers he controlled and/or owned and did not involve any change of beneficial ownership (*i.e.* wash trades). FINRA also found that to further his scheme, Ritz created inaccurate and/or incomplete order tickets that the firm retained, causing the firm to violate Securities Exchange Act Rule 17a-3 and NASD Rule 3110. In addition, FINRA determined that the firm's WSPs did not provide for supervision reasonably designed to achieve compliance with NASD/FINRA rules or applicable securities laws and regulations concerning improper trading activity and wash trades.

The suspension is in effect from July 2, 2012, through January 1, 2014. (**FINRA Case #2009016581301**)

Firms Fined

AEI Securities, Inc. (CRD #6158, St. Paul, Minnesota) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $20,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it only retained incoming and outgoing emails spot-checked for compliance purposes on a weekly basis, which was less than 20 percent of all of its registered representatives' incoming and outgoing email correspondence during the relevant time period. The findings stated that the firm printed out and kept hard copies of all emails spot-checked in a correspondence file for three years. The firm failed, however, to maintain or preserve all email correspondence relating to its business as a broker-dealer for at least three years. (**FINRA Case #2011025483201**)

Banc of America Investment Services, Inc. (CRD #16361, Boston, Massachusetts) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $50,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it improperly allowed its "fund strategies-advised" customers to forego the receipt of immediate trade confirmations and, instead, to receive trade confirmations on a quarterly basis. The findings stated that for those accounts where the customers opted on the account application to receive periodic account statement delivery, the firm sent the customers individual trade confirmations on a quarterly basis instead of sending immediate trade confirmations pursuant to Securities and Exchange Commission (SEC) Rule 10b-10(a). The findings stated that "fund strategies-advised" accounts elected to receive trade confirmations on a quarterly basis in lieu of immediate trade confirmations so the firm did not deliver immediate trade confirmations for approximately 23,450 transactions valued at $323,475,815. (**FINRA Case #2008014187702**)

Clearview Correspondent Services, LLC (CRD #142785, Richmond, Virginia) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $100,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to close out fail-to-deliver positions in accordance with the SEC requirement to immediately purchase or borrow securities of like kind or quantity by no later than the beginning of regular trading hours on the settlement date (T+4), subject to certain exceptions, or on the third settlement day after settlement date (T+6) if the position resulted from a long sale or certain *bona fide* market making activity. The findings stated that because the firm was not monitoring its fail-to-deliver positions, it also failed to provide notification to brokers and dealers from whom it accepted trades for clearance and settlement that it had failed to close out fail-to-deliver positions in equity securities. The findings also stated that the firm failed to implement supervisory procedures and systems reasonably designed to ensure compliance with Rule 204T and Rule 204 of Regulation SHO. The findings also included that while the firm adopted policies and procedures that comported with the enhanced close-out requirements of Rule 204T and Rule 204(a), it did not follow these procedures.

FINRA found that the firm failed to supervise firm staff responsible for monitoring its fail-to-deliver obligations to ensure they adequately understood the impact of the changes under the rules. As a result, firm staff did not close out fail-to-deliver positions in accordance with these new rules. Firm employees continued to follow the requirements in place prior to the enhanced delivery and not close out requirements until a later date. FINRA also found that the firm failed to have any WSPs in place that addressed the notification requirements of Rule 204T(c) and Rule 204(c) until a later date, so it failed to provide the required notifications to brokers or dealers from whom it accepted trades for clearance and settlement that it had failed to close out fail-to-deliver positions in equity securities. (**FINRA Case #2010023517501**)

ConvergEx Prime Services LLC (CRD #140185, Alpharetta, Georgia) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined $13,500 and required to revise its WSPs regarding Order Audit Trail System (OATS™) reporting. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to transmit almost all of its Reportable Order Events (ROEs) to OATS during the review period. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning OATS reporting. (**FINRA Case #2011027286401**)

E*Trade Securities LLC (CRD #29106, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $75,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report to FINRA the name and other identifying information of the registered representatives named in customer complaints it received alleging the registered representatives' misconduct. The findings stated that the vast majority of the complaints alleged sales practice violations like unauthorized transactions, mismanagement, unsuitability and misrepresentations related to auction rate securities. The findings also stated that on statistical and summary reports concerning complaints, the firm incorrectly reported the location of the branch office where the grievance occurred. In some instances, the firm reported that the complaints originated from the locations where the complaints were reviewed. The findings also included that the firm failed to report complaints concerning auction rate securities that were sales practice related—those complaints mainly alleged illiquidity, misrepresentations and poor recommendations. One of the complaints alleged fraud and another alleged unauthorized trading. Rather than report the complaints itself, the firm's sister broker-dealer, with which it shared some overlapping compliance systems, reported the complaints, and incorrectly reported them under a non-sales practice problem code for Account Administration and Processing (Code 61). (**FINRA Case #2010020952901**)

First Midwest Securities, Inc. (CRD #21786, Bloomington, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $75,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to establish and maintain a supervisory system and establish, maintain and enforce WSPs reasonably designed to review the suitability of equity transactions to detect and prevent excessive trading. The findings stated that the firm did not utilize exception reports to assist in detecting patterns of unsuitable excessive trading. The firm's clearing firms made exception reports available that identified turnover and commission-to-equity ratio in customer accounts. The firm did not begin using such reports until a later time. The findings also stated that to identify unsuitable excessive trading, the firm relied on the daily review of trade blotters as well as turnover ratio reports that were prepared manually and reviewed by the firm's compliance staff on a semi-annual basis. The manually-prepared reports did not address cost-to-equity ratios in accounts. The findings also included that the firm's WSPs provided inadequate guidance on how the reports should be prepared and used. The firm's WSPs did not offer specific guidance on how accounts would be reviewed for excessive trading or provide for the supervisory measures that would be implemented to detect and prevent such activity. FINRA found that the firm's procedures called for a semi-annual review of an Active Account Report, but the firm did not utilize such a report. Although the firm contacted customers whose accounts were subject to active trading by sending them an Intent to Maintain an Active Account Form, those forms did not provide customers with details such as the amount of commissions paid. FINRA also found that as a result of the firm's supervisory deficiencies, the firm failed to identify and prevent a registered representative's excessive trading in certain customer accounts. (**FINRA Case #2009020663201**)

Fordham Financial Management, Inc. (CRD #20996, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it improperly reported Execution or Combined Order/Execution Reports to OATS with a reporting exception code of "M." The findings stated that the firm transmitted reports to OATS that contained inaccurate capacity codes. (**FINRA Case #2010023689701**)

HSBC Securities (USA) Inc. (CRD #19585, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $45,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to timely report ROEs to OATS; reported Execution or Combined Order/Execution Reports that contained inaccurate, incomplete or improperly formatted data; and transmitted Route or Combined Order/Route Reports to OATS that OATS was unable to link to the related order routed to NASDAQ or link to the corresponding new order transmitted by the destination member firm due to inaccurate, incomplete or improperly formatted data. The firm failed to transmit numerous ROEs to OATS during a review period. The findings stated that the firm transmitted reports to

OATS that contained inaccurate destination codes. The findings also stated that the firm failed, within 90 seconds after execution, to transmit last sale reports of transactions in designated securities to the FINRA/NASDAQ Trade Reporting Facility (FNTRF), and failed, within 90 seconds after execution, to transmit last sale reports of transactions in over-the-counter (OTC) equity securities to the OTC Reporting Facility (OTCRF). (**FINRA Case #2008015436301**)

Interactive Brokers LLC (CRD #36418, Greenwich, Connecticut) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $550,000, which includes disgorgement of approximately $6,000 in commissions received. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it executed customer short sales in the securities of financial services firms covered by an SEC Emergency Order, which prohibited short selling in any firms identified in the appendix to the Emergency Order. The firm obtained commissions totaling approximately $6,000 for effecting these short-sale transactions. The findings stated that the firm also failed to comply with SEC Rules 204T(a) and 204(a). Prior to the enactment of Rule 204T(a), the firm devised a policy that did not mandate that fail-to-deliver positions resulting from short sale transactions be closed out no later than the time of the market's open on T+4; the firm's policy permitted the close out of fail-to-deliver positions resulting from short sales to occur shortly after the market's open, generally within minutes after the market's open. The findings also stated that for more than two years, the firm failed to timely close out its fail-to deliver positions in approximately 34,000 short sale positions, violating SEC Rules 204T(a) and 204(a). The findings also included that the firm failed to put into place a supervisory system reasonably designed to achieve compliance with Rules 204T(a) and 204(a).

FINRA notified the firm that its policy relating to Rule 204T(a) and Rule 204(a) was deficient because it did not mandate that all fail-to-deliver positions resulting from short sale transactions be closed out no later than the market's open on T-4. The firm took steps to address the problem and correct its supervisory controls, but the controls remained deficient because the firm failed to timely execute the buy-ins, closing out fail-to-deliver positions in short sales on approximately 4,000 occasions, thereby failing to implement an adequate supervisory system to achieve compliance with Rule 204T(a) and Rule 204(a). (**FINRA Case #2010022582001**)

Isaak Bond Investments, Inc. (CRD #7413, Denver, Colorado) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $22,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report information regarding transactions effected in municipal securities to the Real-time Transaction Reporting System (RTRS) in the manner prescribed by Municipal Securities Rulemaking Board (MSRB) Rule G-14 RTRS Procedures and the RTRS Users Manual; the firm failed to report information about

such transactions to an RTRS Portal within 15 minutes of trade time. The findings stated that the firm failed to document the correct trade time on trade memorandum for these transactions. The findings also stated that the firm failed to report transactions in Trade Reporting and Compliance Engine® (TRACE®)-eligible securities to TRACE within 15 minutes of execution time. The firm failed to accurately report information in these instances. The findings also stated that the firm failed to show the correct execution time on some brokerage order memoranda. (**FINRA Case #2009018643001**)

Jefferies & Company, Inc. (CRD #2347, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined $30,000 and required to pay $19,848.15, plus interest, in restitution to customers. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it bought or sold corporate bonds from or to customers, and failed to buy or sell bonds at a price that was fair, taking into consideration all relevant circumstances, including market conditions with respect to each bond at the time of the transaction, the expense involved and that the firm was entitled to a profit. (**FINRA Case #2008013511201**)

LPL Financial LLC (CRD #6413, Boston, Massachusetts) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $17,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report information regarding transactions effected in municipal securities to the RTRS in the manner prescribed by MSRB Rule G-14 RTRS Procedures and the RTRS Users Manual; the firm failed to report information about such transactions to an RTRS Portal within 15 minutes of trade time. The findings stated that the firm failed to report the correct trade time to the RTRS for these transactions, and failed to show the correct execution time on some brokerage orders memoranda. The findings also stated that the firm failed to report S1 transactions in TRACE-eligible agency debt securities to TRACE within 15 minutes of the execution time. (**FINRA Case #2010024975401**)

Merrill Lynch, Pierce, Fenner & Smith Incorporated (CRD #7691, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $450,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it offered a wide range of structured products to retail customers and, between January 1, 2006, and March 1, 2009, effected approximately 650,000 structured product purchases, of which greater than 50 percent involved structured product offerings the firm's parent company issued. The findings stated that the firm, in supervising sales of securities to retail customers, relies upon automated exception-based reporting systems to flag transactions and/or accounts that met certain pre-defined criteria; but prior to March 1, 2009, did not have an exception-based reporting system that specifically monitored for potentially unsuitable concentration levels in structured products in customer accounts. (**FINRA Case #2010022011901**)

Merrill Lynch Professional Clearing Corp. (CRD #16139, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $80,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to retain instant messages sent and received by employees who joined the firm as part of an entity the firm acquired and who sent and received instant messages using non-firm messaging systems. The findings stated that the firm failed to retain sender/recipient information for electronic messages that the same acquired entity's legacy employees sent and received through a proprietary trading system. The electronic system also did not automatically verify the quality and accuracy of the storage media recoding process. The electronic messages sent and received via the proprietary trading system were not stored accurately. The findings also stated that the system could not readily download complete and accurate indexes and records given that the system did not retain accurate and complete sender/recipient information. (**FINRA Case #2009016334001**)

Merrimac Corporate Securities, Inc. (CRD #35463, Altamonte Springs, Florida) was fined $18,500. The National Adjudicatory Council (NAC) imposed the sanction following appeal of an Office of Hearing Officers (OHO) decision. The sanction was based on findings that the firm sold private placements, real estate investment trusts (REITs), limited partnerships and direct participation programs not authorized by its FINRA membership agreement, and that the sale of each was a material change in its business that required the filing of an application for approval of a change in business operations and FINRA approval. The findings stated that the firm failed to establish, maintain and enforce WSPs to supervise the sale of these products and variable annuities. The findings also stated that the firm failed to maintain adequate books and records with respect to emails by willfully failing to preserve all business-related incoming emails and internal emails, willfully failing to preserve emails in an easily accessible place, willfully failing to preserve emails in a non-erasable, non-rewritable format, and failing to notify FINRA that its emails would be maintained on electronic storage media. FINRA found that the firm failed to make and keep current blotters for its direct application mutual fund and variable annuity businesses. Because these actions were deemed willful violations, Merrimac is statutorily disqualified. (**FINRA Case #2007007151101**)

Morgan Stanley Smith Barney LLC (CRD #149777, Purchase, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $450,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that a junior trader was responsible for trading federal agency products (Fannie Mae and Freddie Mac) in a cash book and futures contracts (Eurodollar and Treasuries) in a futures book. The junior trader was permitted to trade remotely so he could trade after hours and react to global events. The findings stated that at the end of one trading day, the trader had accumulated a futures position of approximately $744 million, more than double the agency desk's limit of $350 million and several multiples over his position limit of $116 million. The findings also stated that he traded at home

and overnight so that, by the following morning, he had further exceeded his position limit with holdings in Eurodollar and Treasury futures of $1.33 billion. The market turned against him that morning and he attempted unsuccessfully to reduce his exposure and suffered losses. The findings also stated that in the morning, the firm identified on a T+1 basis a risk anomaly that was traced to the trader and cut off his access to the trading system. The trader had reduced the cumulative position to $740 million, but the five-year agency book sustained a realized loss of $4.7 million. The firm liquidated 75 percent of the remaining contracts and liquidated the rest the following day, thereby realizing additional losses. Based on the trader's trading over two days, the firm's account sustained realized losses totaling approximately $14.9 million. Since these were proprietary positions, there wasn't any customer loss. The findings also included that the firm did not have adequate safeguards or controls in place to detect that the trader had exceeded his position limit by the end of the trading day or to prevent him from exceeding his position limit while trading remotely overnight. The trading desk did not have a consolidated view to capture and monitor trading activity across products and systems, which contributed to the firm's failure to detect that the trader had exceeded the agency's desk and his own position limit by the end of the trading day. The firm also did not have sufficient controls to prevent the trader from exceeding his position limit while trading remotely overnight. (**FINRA Case #2009018841002**)

NFP Securities, Inc. (CRD #42046, Austin, Texas) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined $43,121.39, and ordered to pay $43,121.39, plus interest, in restitution to a customer. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it charged excessive markups on several riskless principal corporate bond transactions in a customer's account. The findings stated that, in each instance, the firm purchased the bonds, added a markup and immediately, on the same day of purchase, sold the bonds to the customer. The firm's markups on the transactions were not fair and reasonable, taking into consideration all relevant circumstances, including the fact that the price was not reasonably related to the amount the firm had contemporaneously paid for the bonds, and the fact that the firm did not provide any evidence to overcome the presumption that its contemporaneous cost constituted the best measure of the prevailing market price of the bonds sold to the customer. The markups the firm charged in the transactions exceeded the amounts other dealers in similar transactions charged by $43,121.39. The findings also stated that the firm's supervisory system and WSPs were not reasonably designed to ensure that prices at which it sold debt securities to customers in principal transactions were fair and reasonable, nor designed to achieve compliance with all applicable laws, rules and regulations pertaining to effecting principal transactions with customers. The findings also included that the firm's WSPs in effect did not address or discuss, to any material extent, Interpretative Material (IM)-2440-1 or IM-2440-2, and did not contain procedures for weighing or applying, including how to weigh or apply, the various factors set forth in those provisions in reviewing and evaluating the fairness of prices in principal transactions

with customers. The firm's procedures also did not address how supervisory reviews of markups and markdowns in principal transactions with customers would be conducted. (**FINRA Case #2009016273001**)

R. Seelaus & Co., Inc. (CRD #14974, Summit, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined $15,000 and ordered to pay $5,995.35, plus interest, in restitution to customers. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that, in transactions and pairs of transactions, it purchased municipal securities for its own account from a customer and/or sold municipal securities for its own account to a customer at an aggregate price (including any markdown or markup) that was not fair and reasonable, taking into consideration all relevant factors, including the best judgment of the broker, dealer or municipal securities dealer as to the fair market value of the securities at the time of the transaction and of any securities exchanged or traded in connection with the transaction; the expense involved in effecting the transaction; the fact that the broker, dealer, or municipal securities dealer is entitled to a profit; and the total dollar amount of the transaction. (**FINRA Case #2009018321101**)

Scott & Stringfellow, LLC (CRD #6255, Richmond, Virginia) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $350,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to establish and maintain a supervisory system, including written procedures, reasonably designed to achieve compliance with applicable NASD and FINRA rules in connection with the sale of Non-Traditional Exchange Traded Funds (Non-Traditional ETFs) in accounts where the firm provided brokerage services to certain retail customers, and failed to provide adequate formal training, guidance or tools to educate registered representatives and supervisors about Non-Traditional ETFs. The findings stated that the firm allowed its registered representatives to recommend a Non-Traditional ETF to customers without performing reasonable diligence to understand the risks and features associated with it. The findings also stated that the firm's registered representatives made unsuitable recommendations of Non-Traditional ETFs to certain customers with the primary investment objectives of income or capital preservation. The firm has already provided restitution to certain customers with these primary investment objectives. (**FINRA Case #2009019536501**)

Scottrade, Inc. (CRD #8206, St. Louis, Missouri) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $250,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it had an automated system whereby it monitored day-trading buying power of pattern day traders on a real-time basis. As pattern day traders placed orders, the firm's trade execution platform calculated the effect on the pattern day trader's day-trading buying power—purchases reduced the available day-trading power and sales restored day-trading buying power. If a pattern day trader's purchase transaction exceeded

available day-trading buying power, the firm's system automatically blocked the order. The findings stated that the firm used an improper method for calculating the reduction in day-trading buying power than provided for in NASD Rule 2520. Rather than using the cost of the transaction (the execution price), the firm used the security's price at the close of the previous day, so the firm could not properly monitor whether pattern day traders were trading in excess of their buying power. The findings also stated that the firm failed to have in place supervisory procedures that effectively detected pattern day traders who exceeded their day-trading buying power so a margin call could be issued. The findings also included that Regulation SHO Rule 204(a) requires participants of registered clearing agencies having a fail-to-deliver position to purchase or borrow securities to close out the fail by no later than the beginning of regular trading hours on the settlement day after the fail occurs (T+4). Rule 204(e) provides an exemption that if the broker-dealer has purchased like securities in an amount sufficient to close the fail position, in a *bona fide* transaction effected on T+1, T+2 and T+3, the broker-dealer is not required to effect a buy-in transaction on the morning of T+4 to close out the open position (pre-fail credit).

FINRA found that the firm improperly counted customer purchases of securities to take advantage of the pre-fail credit in calculating its close-out obligation on the morning of T+4, so on approximately 6,541 occasions, it failed to close out open fail positions by effecting a buy-in transaction prior to the opening of trading hours on the morning of T+4. FINRA also found that the firm failed to have in place supervisory procedures that ensured compliance with Rule 204(a)'s close-out requirement and its use of the pre-fail credit. (**FINRA Case #2010021776501**)

ThinkEquity LLC (CRD #44274, San Francisco, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $32,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that a firm sales associate contacted a customer's representative, who was not authorized to place orders for the customer, to inquire about having the firm dispose of a second tranche of shares of securities for the customer, and was retained to do so. The firm sold more than 500,000 shares into the market without any positioning or hedging trades. The shares were restricted pursuant to a prospectus and became available for sale to the public in one-third tranches. The findings stated that a broker-dealer, unrelated to the firm, effected the sale of the first tranche. The firm's sales associate contacted the customer about having the firm remove the resale restriction on, and dispose of, the third tranche for the customer, to which the customer agreed. After discussions with the firm's sale associate and in anticipation of receiving the order to sell the third tranche, the firm's position trader, without informing the sales associate, established a proprietary short position of shares by effecting short sales in a firm proprietary account. The orders were marked short, but neither the position trader nor anyone on his or the firm's behalf performed a locate prior to effecting any short sales. The findings also stated that, prior to the open, a different staff member at the customer, who was authorized to place securities trades, placed an order with the firm's sales associate to sell the third tranche;

shortly thereafter, the sales associate transmitted the order to the firm's position trader. The customer was unaware of the firm's pre-positioning activities, and no one in the firm informed him of the position trader's short sale activity, which was different from the manner the firm sold the second tranche. The firm was not a market maker in the securities and the sales associate had indicated the firm would not be entering the market until a later date. The findings also included that the position trader sold shares of the security for the customer into the market and simultaneously, using the firm's institutional trading desks, identified buy-side interest of shares at a lower price. At the same time, the position trader effected the sale of shares to the firm's institutional clients, bought shares from the customer to cover the firm's proprietary short position and purchased additional shares proprietarily to complete the order.

FINRA found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and rules concerning the execution of large, potentially market-moving transactions for a customer in securities in which the firm was not a market-maker. FINRA also found that the firm effected these short sales without borrowing the security, or entering into a *bona fide* arrangement to borrow the security or having reasonably grounds to believe that the security could be borrowed so that it could be delivered on the date delivery is due, and without documenting compliance with SEC Rule 203(b)(1) of Regulation SHO. In addition, FINRA determined that the firm failed to transmit ROEs related to the short sales to OATS. (**FINRA Case #2007009937401**)

Track Data Securities Corporation (CRD #103802, Brooklyn, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined $25,000 and required to revise its WSPs. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to accurately report transactions to the FNTRF; the firm appended the price override indicator to transactions that were not away from the national best bid or offer (NBBO), and failed to report to the FNTRF the correct symbol indicating the capacity in which it executed a transaction in a reportable security. The findings stated that the firm failed to report two transaction cancellations within 90 seconds of the documented cancellation time. The firm transmitted reports to OATS that contained inaccurate Market Center IDs; a report contained an inaccurate account type code and reports contained incorrect limit prices. The firm failed to provide written notification disclosing to its customers its correct capacity in transactions. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable federal securities laws and regulations and/or NASD/FINRA rules. The firm's WSPs failed to provide for minimal requirements for adequate WSPs regarding requirements to properly determine whether a sale is long or short and to mark the member's order records accordingly, requirements to locate or arrange to borrow securities being sold prior to execution, requirements to monitor prompt delivery of sale transactions on settlement date, requirements to refrain from accepting short sale orders after a fail occurs without first borrowing the security,

monitoring for compliance with the naked short selling antifraud rule, procedures to review and verify that clearly erroneous transactions are being filed accurately and appropriately, review and detection of potential order-entry errors to identify and prevent issues leading to the filing of clearly erroneous trades, procedures to ensure the firm does not accept orders in any National Market system (NMS) security in an increment smaller than .01 if the price is equal to or greater than 1.00 per share, procedures to ensure the firm does not accept orders in an NMS security in an increment smaller than .0001 if the price is less than 1.00 per share, and procedures to help ensure compliance and to review for compliance with the requirement that reported OATS data is accurate and timely, whether reported by the firm or by a third party on the member's behalf. (**FINRA Case #2010024899301**)

UBS Financial Services Inc. (CRD #8174, Weehawken, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $167,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it had fail-to-deliver positions at a registered clearing agency in equity securities that resulted from long sales, and failed to immediately thereafter close out the fail-to-deliver positions by purchasing securities of like kind and quantity no later than the beginning of regular trading hours on the third consecutive settlement date following the settlement dates for the sale transactions (i.e., T+6). The findings stated that the firm had a fail-to-deliver position at a registered clearing agency in an equity security that resulted from a short sale, and failed to immediately thereafter close out the fail-to-deliver position by purchasing securities of like kind and quantity no later than the beginning of regular trading hours on the next consecutive settlement date following the settlement date for the short sale transaction (i.e. T+4). The findings also stated that the firm transmitted reports to OATS that contained inaccurate buy/sell order designations. The findings also included that the firm failed to report to the OTCRF the correct symbol indicating whether a transaction was a buy, sell, sell short, or cross for transactions in reportable securities. (**FINRA Case #2008015161601**)

WFG Investments, Inc. (CRD #22704, Dallas, Texas) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $40,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that, in connection with a contingent securities offering the firm conducted, it failed to ensure, during the offering's contingency period, that all investor funds were deposited into the escrow account created for the offering. The findings stated that customers' checks, which totaled over $400,000, were deposited into the bank account of a company affiliated with the issuer instead of into the escrow account. The funds were subsequently deposited into the escrow account. The findings also stated that the firm charged excessive markups on some riskless principal corporate bond transactions in customer accounts. In each instance, the firm purchased the bonds, added a markup, and immediately, on the same day of purchase, sold the bonds to the customers. The firm's markups on the transactions were not fair and reasonable taking into consideration all relevant circumstances, including the fact that the price was not reasonably related to

the amount that it had contemporaneously paid for the bonds and the fact that the firm did not provide any evidence to overcome the presumption that its contemporaneous cost constituted the best measure of the prevailing market price of the bonds sold to the customers. The findings also included that in at least some instances, the firm failed to accurately report the execution time of certain transactions to TRACE.

FINRA found that the firm created and maintained incomplete and inaccurate order tickets. Some order tickets for municipal bond transactions and corporate bond transactions did not capture and record the receipt time. In connection with a private placement securities offering, the firm failed to maintain copies of all customer subscription agreements and proof that the firm had reviewed and approved each subscription. FINRA also found that the firm failed to enforce its WSPs regarding private placement offerings. In connection with a contingent private placement offering, the firm failed to document all checks received from customers and forwarded to the escrow account, and failed to supervise the escrow account during the offering's contingency period. In addition, FINRA determined that the firm's supervisory system and WSPs were not reasonably designed to ensure that prices at which it sold debt securities to customers in principal transactions were fair and reasonable, nor designed to achieve compliance with all applicable laws, rules and regulations pertaining to effecting principal transactions with customers. The firm's procedures did not address or discuss IM-2440-1 or IM-2440-2, and did not contain requirements for weighing or applying the various factors set forth in those provisions in reviewing and evaluating the fairness of prices in principal transactions with customers. (**FINRA Case #2009016279101**)

Individuals Barred or Suspended

Merlin Earl Ames (CRD #5039655, Registered Representative, Prairie Du Chien, Wisconsin) submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member in any capacity for one month. In light of Ames' financial status, no monetary sanctions have been imposed. Without admitting or denying the findings, Ames consented to the described sanction and to the entry of findings that he borrowed $9,000 from a member firm customer with whom he had a personal relationship. The loan was evidenced by promissory notes that did not specify a due date for repayment or for any interest to be paid on the loan. The findings stated that Ames twice electronically signed his firm's annual audit questionnaire acknowledging that he understood the firm's policy against borrowing money from, or loaning money to, any firm customer without prior written approval. Ames did not obtain his firm's prior approval before accepting the loan. The findings also stated that Ames' firm repaid the $9,000 to the customer.

The suspension was in effect from July 2, 2012, through August 1, 2012. (**FINRA Case #2011026731101**)

Andrew Paul Arno (CRD #2643104, Registered Representative, West Melbourne, Florida) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Arno misused customers' funds by redirecting individual retirement account (IRA) contributions from customers' accounts to a bank account he controlled, instead of investing them in IRAs as he had represented to the customers and their relatives. The findings stated that after failing to receive account statements for an extended period of time, one of the customers contacted the IRA entity directly and learned that they did not have a record of any IRA contributions for one year. When the customer raised this with Arno, he claimed that the firm was holding the funds directly. When the customer contacted the firm, she learned that this was not true and confronted Arno, who reimbursed the customer and her relative for approximately $30,000, in aggregate. Similarly, another customer filed a complaint with the firm, claiming that Arno had stolen $64,000 from him and his relative by taking funds that they told him to invest in their IRAs. Shortly after this complaint, Arno reimbursed the customer and his relative. The findings also stated that Arno failed to respond to FINRA requests for information and testimony. (**FINRA Case #2010023480801**)

Harry Eugene Asmussen (CRD #1207271, Registered Principal, Sandia Park, New Mexico) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $5,000 and suspended from association with any FINRA member in any capacity for three months. Without admitting or denying the findings, Asmussen consented to the described sanctions and to the entry of findings that while working as a registered representative with his member firm, he engaged in an outside business activity in the form of a referral relationship with an insurance agent not affiliated with his firm. The findings stated that Asmussen referred his customers to an outside insurance agent and in return, received compensation in the form of a percentage of commissions, on replacement insurance policies the other agent issued. The findings also stated that Asmussen failed to disclose this outside business activity to his firm.

The suspension is in effect from July 16, 2012, through October 15, 2012. (**FINRA Case #2010023471001**)

David Waldemar Asplund Jr. (CRD #2803177, Registered Representative, Redmond, Washington) submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member in any capacity for nine months. In light of Asplund's financial status, no monetary sanction has been imposed. Without admitting or denying the findings, Asplund consented to the described sanction and to the entry of findings that he borrowed $50,000 from his customers who were not members of his immediate family and not in the business of lending money, and did not seek or obtain the firm's prior written approval, contrary to the firm's written supervisory policies and procedures that required the firm's prior written approval. The findings stated that Asplund has repaid more than $30,000 of the loans. The findings also stated that Asplund engaged in outside business activities without providing prompt written notice to his firm. The

findings also included that Asplund failed to amend his Uniform Application for Securities Industry Registration or Transfer (Form U4) to disclose an unsatisfied judgment against him.

The suspension is in effect from June 18, 2012, through March 17, 2013. (**FINRA Case #2010023138301**)

Michael Benton Beahm (CRD #852748, Registered Principal, Harrisonburg, Virginia) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $5,000 and suspended from association with any FINRA member in any capacity for 10 business days. Without admitting or denying the findings, Beahm consented to the described sanctions and to the entry of findings that he effected trades in a customer's account without her authorization or consent.

The suspension is in effect from August 6, 2012, through August 17, 2012. (**FINRA Case #2011028795001**)

Larry Ivan Behrends (CRD #16971, Registered Principal, Greeley, Colorado) was fined $39,250 and suspended from association with any FINRA member in any capacity for 18 months. Restitution was not ordered because a receiver appointed by a federal court is in the process of collecting a company's assets and making restitution to customers. The sanctions were based on findings that Behrends knew, or should have known, that a company had defaulted on promissory notes from earlier offerings and he had received formal notice of earlier defaults but, nevertheless, recommended and sold $600,000 of the company's promissory notes to customers without disclosing it had defaulted on previous offerings. The findings stated that Behrends also knowingly or recklessly misrepresented to his customers that the notes were a secure investment with low risk and the company had a history of making its principal and interest payments on time, thereby failing to disclose material information. The findings also stated that Behrends received $29,250 in gross commissions from his sales of the notes to customers. The findings also included that Behrends' recommendations to customers were unsuitable based on the customers' ages, investment objectives, risk tolerances and needs. Behrends disregarded significant red flags that should have warned him that the notes were risky and potentially fraudulent.

The suspension is in effect from July 2, 2012, through January 1, 2014. (**FINRA Case #2010021559101**)

Matthew Leon Bradakis (CRD #2800107, Registered Representative, Opelika, Alabama) submitted a Letter of Acceptance, Waiver and Consent in which he was censured and barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Bradakis consented to the described sanctions and to the entry of findings that he recommended to an elderly firm customer that she use her $80,000 inheritance to purchase a condominium she could use occasionally and later become her residence once her husband passed away. The customer asked Bradakis to purchase the condo on her behalf in her and Bradakis' names. The customer delivered an $80,000 check

to Bradakis payable to him from her checking account. Bradakis did not inform his member firm of these dealings or that he was receiving funds from a firm customer. Bradakis deposited the funds into an account he controlled at his bank and used approximately $25,381.89 for his personal use. The findings stated that Bradakis used $43,000 of the customer's funds as a down payment on a condo with himself as the sole grantee, and created and delivered a deed of ownership to the customer granting her 49 percent interest in the property and the remaining 51 percent to his company with himself as managing member. The findings also stated that Bradakis and the customer signed the deed, which was not notarized nor recorded, making him the sole grantee. Bradakis rented the condo to third parties with the customer's understanding that the rental income would be used for mortgage payments. Bradakis received additional funds from the customer to pay condo expenses. The findings also included that Bradakis' firm settled with the customer and paid her $95,000 and, at the same time, Bradakis paid her $5,000 and later paid $75,000 to the firm to reimburse the firm's settlement with the customer. FINRA found that Bradakis failed to respond to a FINRA request for information. (**FINRA Case #2010024900601**)

Jesus Manuel Bravo (CRD #2838164, Registered Principal, Middle Village, New York) submitted an Offer of Settlement in which he was fined $20,000 and suspended from association with any FINRA member in any capacity for one year. The fine must be paid either immediately upon Bravo's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the allegations, Bravo consented to the described sanctions and to the entry of findings that he directed the payment of securities compensation to an unregistered individual who operated a business out of the same office space as Bravo. The findings stated that the unregistered individual attempted to become registered with Bravo's member firm, but the firm declined to register him based on his prior disciplinary history. Bravo previously had worked with the unregistered individual at other member firms. The findings also stated that Bravo claimed that the unregistered individual provided him with stock recommendations based on the unregistered individual's stock research. In exchange for the purported stock research, which Bravo claims he used for customers of his firms, Bravo paid the unregistered individual approximately 40 percent of his brokerage commissions, totaling approximately $255,298. Bravo did not disclose his commission payment arrangement with the unregistered individual to anyone at his firms. The findings also included that Bravo submitted a false and misleading compliance questionnaire to one of his firms, denying that any other businesses were housed at his branch office. At the time he answered "no" to that question, Bravo knew that a business the unregistered individual operated was housed in the same offices as his firm's branch office. FINRA found that by signing and submitting the compliance questionnaire with the incorrect information, Bravo caused his firm's books and records to contain false and misleading information regarding the composition of its branch office. By means of his actions, Bravo also effectively concealed from his firm that the individual it had previously rejected for registration was nevertheless working out of the same office space as Bravo.

The suspension is in effect from July 16, 2012, through July 15, 2013. (**FINRA Case #2011027760602**)

Christopher Andrew Carra (CRD #2214509, Registered Representative, Deerfield Beach, Florida) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $20,000 and suspended from association with any FINRA member in any capacity for one year. The fine must be paid either immediately upon Carra's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Carra consented to the described sanctions and to the entry of findings that he was attempting to procure investment banking and consulting business from a publicly traded company and posted comments on an Internet message board about the company under numerous author names or handles. Several statements in the postings were unwarranted and misleading; some involved conversations between his different handles in which he embellished the prospects for the company and provided the allusion of consensus regarding the company's prospects. The findings stated that to make the postings, Carra used multiple outside or non-firm-provided email addresses, in violation of his member firm's WSPs. Carra also used two outside email addresses to communicate with company representatives about business-related matters, in violation of his firm's WSPs. One of the outside email addresses may have given the impression that it was a firm-provided email address when it was not one.

The suspension is in effect from July 16, 2012, through July 15, 2013. (**FINRA Case #2011030840501**)

Jason Robert Cavalier (CRD #2253844, Registered Principal, Simi Valley, California) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Cavalier consented to the described sanction and to the entry of findings that he willfully failed to disclose material facts on his Form U4. The findings stated that in response to a FINRA request that he appear for an on-the-record interview, Cavalier stated that he would not continue to cooperate with FINRA's investigation. (**FINRA Case #2011026189201**)

Shaun Jay Christensen (CRD #2821230, Registered Representative, Simi Valley, California) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Christensen consented to the described sanction and to the entry of findings that he instructed a customer to write a $400 check for transactional fees for financial planning services directly to him, rather than his member firm. Christensen cashed the check for his personal use without the customer's knowledge or consent. (**FINRA Case #2010024673101**)

Benny Allen Courtney (CRD #2000147, Registered Principal, Florence, Kentucky) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $2,500 and suspended from employment or association with any FINRA member in any capacity for 10 business days. The fine must be paid either immediately upon Courtney's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Courtney consented to the described sanctions and to the entry of findings that he borrowed $850 from his customer, whom Courtney described as his neighbor and good friend. The findings stated that Courtney repaid the customer and in return received a dated document the customer signed acknowledging receipt of the full $850 loan payment. The findings also stated that the firm received a verbal complaint from the customer's relative alleging that Courtney had taken a loan from the customer. The firm determined that Courtney had failed to comply with its procedures, which prohibited registered representatives from borrowing money from customers. Courtney admitted to the conduct, and the firm terminated his employment. The findings also included that Courtney received the firm's policies, had access to the firm's website containing such policies and was required to participate in the firm's annual compliance meeting, including presentations regarding the prohibition against borrowing funds from customers.

The suspension was in effect from June 18, 2012, through June 29, 2012. (**FINRA Case #2010022505201**)

Timothy Edward Daly (CRD #1219609, Registered Representative, Ridgewood, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $97,500, which includes disgorgement of ill-gotten gains, and suspended from association with any FINRA member in any capacity for three months. Without admitting or denying the findings, Daly consented to the described sanctions and to the entry of findings that he caused customers to be overcharged commissions and fees in connection with certain securities transactions. The findings stated that in some instances, Daly caused the purchase of securities in the customer's commission-based retail account and then journaled the positions into that customer's fee-based accounts. Conversely, Daly sometimes journaled securities positions out of the customer's fee-based account and into the customer's commission-based retail account, and then caused the positions to be sold. The findings also stated that, consequently, the customers paid a commission on transactions effected in their retail account and paid fees on the same securities in their fee-based account, so they effectively paid twice for those transactions, with excess charges totaling approximately $212,120.37.

The suspension is in effect from June 18, 2012, through September 17, 2012. (**FINRA Case #2009018310201**)

Jose Guillermo Delmendo (CRD #5890593, Registered Representative, El Segundo, California) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Delmendo consented to the described sanction and to the entry of findings that he forged individuals' signatures on subscription agreements for renters' insurance policies, without their knowledge or consent, in order to continue to receive monthly subsidy payments from an insurance group. The findings stated that many individuals were tenants living at properties his family or friends owned. The findings also stated that Delmendo paid approximately $18 per policy to cover the initial fees and premiums owed on the policies. As a result of his actions, Delmendo received approximately $6,000 in subsidy and commission payments to which he was not entitled. Delmendo used the funds to pay for operating expenses of his insurance business and used a portion to pay ordinary living expenses, thereby converting funds. (**FINRA Case #2011028822001**)

Joseph Anthony DeLuca Jr. (CRD #2287875, Registered Principal, Winchester, Massachusetts) submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member in any capacity for six months. In light of DeLuca's financial status, no monetary sanctions have been imposed. Without admitting or denying the findings, DeLuca consented to the described sanction and to the entry of findings that he failed to timely respond to FINRA requests for information and documents regarding, among other things, customers' investments in private placements, REITs and an annuity while he was associated with his member firm.

The suspension is in effect from July 2, 2012, through January 1, 2013. (**FINRA Case #2010023776902)**

Lisa Ann Deves (CRD #1964973, Registered Principal, Ballwin, Missouri) submitted a Letter of Acceptance, Waiver and Consent in which she was fined $5,000 and suspended from association with any FINRA member in any principal capacity for 10 business days. Without admitting or denying the findings, Deves consented to the described sanctions and to the entry of findings that she served as a registered representative's supervisor designee until the registered representative's departure from Deves' member firm. The findings stated that the registered representative recommended that a retired, 70-year old customer invest in private placement offerings, when these investments were unsuitable for the customer since they failed to meet the customer's investment objectives, financial situation and needs, given the significant risk and illiquid nature of the investments. Deves approved these transactions, failing to take the appropriate action to supervise the representative and prevent her violation of the suitability rules. The findings also stated that Deves failed to ensure that the representative's trade and check blotters were complete and submitted in a timely manner. In particular, blotters the representative submitted were often incomplete; they identified checks, but failed to provide details such as check numbers and received and forwarded dates, and Deves failed to follow up on the incomplete blotters. The findings also included that the representative, while under Deves' supervision, did not

file her blotters with her supervisor on a timely basis, as the firm's supervisory procedures required. By failing to ensure that these blotters were accurate and timely filed, Deves failed to supervise the representative and ensure that she complied with the firm's supervisory procedures and FINRA rules.

The suspension was in effect from July 16, 2012, through July 27, 2012. (**FINRA Case #2009018026803**)

Brian Lee Estes (CRD#2144447, Registered Principal, Columbia, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $25,000, suspended from association with any FINRA member in any capacity for one year and ordered to pay $62,500, plus interest, in restitution to customers. The fine must be paid either immediately upon Estes' reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Estes consented to the described sanctions and to the entry of findings that he solicited his member firm's customers to invest in a company's private placement. The findings stated that Estes used his firm's email and did not obtain the firm's permission to send promotional materials. The findings also stated that at a later date, Estes sent the company's promotional materials to more of his firm's customers, including to some of the customers whom he contacted with the forwarded email about the investor presentation, without notifying his firm. The findings also included that Estes invested in the company without notifying his firm, by signing a promissory note loaning the company $50,000 in exchange for preferred stock shares, then signing a subscription agreement and investing another $50,000 in exchange for more preferred stock shares. Estes did not provide prior written notice to the firm of this stock purchase, and as a result of these purchases, he engaged in private securities transactions.

FINRA found that Estes participated in the sale of the company's securities to customers without notifying his firm. FINRA also found that Estes served on the company's board of directors and provided business consulting services to the company for compensation without his firm's prior written authorization. In addition, FINRA determined that after agreeing to be on the company's board of directors, Estes submitted an outside business questionnaire seeking his firm's authorization to be on the board. The firm's compliance department asked him for additional information, and Estes notified his firm for the first time that he had invested in the company. The firm denied Estes' request to be on the company's board or own its stock. Later, Estes made his first request to his firm for permission to purchase the company's stock by submitting an Alternative Investment Accommodation Purchase Unsolicited Private Transaction form, and asked his firm's compliance department to reconsider its decision and make an exception to allow him to be on the board and own stock; the firm denied Estes' request. Estes did not request his firm's permission to solicit customers to purchase the company's stock. Moreover, FINRA found that Estes misled his firm's compliance department about his activities with

the company in that he had not solicited the purchase of shares and suggested that his customer purchase was based on a relationship the customer had with the company's founder before he introduced them. These statements were untrue. In seeking an exception to be allowed to be on the board and own the company's stock after his request was denied, Estes again falsely stated in an email that the partnership the company had with his customer had not been solicited. Furthermore, FINRA found that Estes used misleading emails and promotional material with his customers concerning the company. The communications were not fair and balanced, and contained exaggerated and unwarranted assertions. These statements failed to provide a reasonable basis for evaluating the information provided. Estes did not submit or obtain approval from a registered principal of his firm for any of the materials he sent to his customers. The findings also stated that Estes improperly guaranteed a customer against loss in connection with a securities transaction.

The suspension is in effect from July 2, 2012, through July 1, 2013. (**FINRA Case #2010023375001**)

John Fitzgerald Failla (CRD #1969338, Registered Principal, Chatham, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Failla consented to the described sanction and to the entry of findings that his member firm had a policy requiring that representatives pay business-related expenses prior to filing expense reports and receiving reimbursement from the firm. The firm also required that representatives submit proof of payment along with their expense reports. The findings stated that for more than a year, Failla submitted copies of the front side of checks as evidence that he had paid the expenses incurred; but in fact, the checks had never been given to the vendor and the business expenses were never paid prior to submission of the expense reports. Failla used the funds the firm reimbursed to pay the vendor at a later time. The amount of the expenses submitted in this misleading manner was approximately $4,000. The findings stated that by attaching checks to expense reports as proof of payment even though he paid for his expenses by cash and money order, Failla falsified his expense reports. The findings also stated that Failla failed to appear for a FINRA on-the-record interview. (**FINRA Case #2009017609201**)

Todd Mitchell Fernbach (CRD #1770010, Registered Principal, Glen Ridge, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $10,000 and suspended from association with any FINRA member in any principal capacity for 90 days. The fine must be paid either immediately upon Fernbach's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Fernbach consented to the described sanctions and to the entry of findings that, as his member firm's anti-money laundering compliance officer (AMLCO), he was responsible for overseeing anti-money laundering (AML) compliance at the firm. The

findings stated that Fernbach's firm offered master account arrangements to its customers and those customers, in turn, recruited their own customers and opened separate accounts for them within the master accounts, called subaccounts, so that these customers could engage in high-volume day trading. The findings also stated that Fernbach responded to most regulatory inquiries the firm received. These included multiple requests from FINRA directing the firm to obtain from its customers statements describing their economic rationale and trading strategy used when executing certain transactions. The transactions giving rise to the regulatory inquiries included potential odd-lot manipulation, wash sale manipulation and layering. Some of the written responses Fernbach obtained suggested that subaccount traders were engaged in potentially manipulative trading activities through master accounts at the firm. The findings also included that Fernbach failed to take adequate steps to look into information suggesting that account holders at his firm may have been engaging in potentially manipulative trading activity.

FINRA found that in failing to respond adequately to red flags suggesting that subaccount traders may have been involved in manipulative trading activity, and in failing to cause his firm to monitor for suspicious trading activity in the master accounts and subaccounts, Fernbach failed to establish and implement policies and procedures that could reasonably be expected to detect and cause the reporting of suspicious activity. FINRA also found that Fernbach failed to establish and implement policies, procedures, and internal controls concerning the identification and verification of subaccount traders' identities. The Bank Secrecy Act implementing regulations require member firms to establish risk-based customer identification procedures for verifying a customer's identify. The U.S. Treasury Department and the SEC indicate that broker-dealers must obtain customer identification information for beneficial subaccount owners in cases where, as at Fernbach's firm, the subaccount holder has direct control over the subaccount at the broker-dealer. The firm failed to obtain required customer identification information for most of the subaccounts during the relevant period.

The suspension is in effect from July 2, 2012, through September 29, 2012. (**FINRA Case #2009021082506**)

Jason Paul Fettig (CRD #3032761, Registered Representative, Bismarck, North Dakota) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $5,000 and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Fettig's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Fettig consented to the described sanctions and to the entry of findings that he participated in the sale of a one-third interest in a business he co-owned to firm customers. The sale constituted a securities transaction and was conducted away from his firm. Fettig failed to disclose the transaction in writing and obtain his firm's approval before the transaction occurred. The findings stated that after the customers decided

to invest, Fettig met with senior management at a banking affiliate of his firm, which instructed him that, before becoming partners with the customers, he must transfer all the customers' accounts at his firm to another representative and provide the affiliate with a legal hold-harmless agreement he and the customers signed, acknowledging that he was entering into a business relationship outside of the banking affiliate's client relationship and that the banking affiliate was in no way responsible for actions related in any way to Fettig's personal business activities. The findings also stated that Fettig did transfer the customers' accounts to another registered representative, but did not inform his firm of the customers' investment in his business or seek his firm's approval of his involvement in that transaction. The firm's compliance department confirmed this in writing. Fettig did not receive any compensation in connection with the sale of his business' shares to the customers.

The suspension is in effect from July 2, 2012, through October 1, 2012. (**FINRA Case #2011026158901**)

Robert James Finnerty (CRD #5910750, Registered Representative, Boston, Massachusetts) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $5,000 and suspended from association with any FINRA member in any capacity for two years. The fine must be paid either immediately upon Finnerty's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Finnerty consented to the described sanctions and to the entry of findings that he disregarded examination rules while taking the Series 7 and Series 66 qualification examinations by taking notes on scratch paper, leaving the testing building during unscheduled breaks and taking the notes reflecting the content of the examination questions outside of the test center. The findings stated that before beginning the examinations, Finnerty agreed to follow the FINRA Test Center Rules of Conduct, which disallowed leaving the building during breaks and removing any materials from the test center other than test score reports. The findings also stated that after returning to the Series 66 test, Finnerty took the piece of scratch paper out of his pocket and proceeded to refer to it while completing the test.

The suspension is in effect from July 2, 2012, through July 1, 2014. (**FINRA Case #2012031079301**)

Richard De Mesa Garrido (CRD #2137549, Registered Representative, Chino Hills, California) submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Garrido consented to the described sanction and to the entry of findings that he instructed a customer to give him a $2,300 check to pay her premiums for a variable life policy and a universal life policy made payable to him, and represented that he would pay the premiums. Garrido deposited the check into his personal bank account and failed to pay the premiums. The findings

stated that after the customer complained to Garrido's member firm, he returned the money to her. At the time of the complaint, the variable life policy was no longer active and the universal life policy was about to lapse since no payment had been made. The findings also stated that Garrido failed to disclose tax liens on his Form U4. The findings also included that Garrido failed to respond to FINRA requests for information and documents. (**FINRA Case #2010024299801**)

Victor Joseph Gogal (CRD #223682, Registered Representative, Tamaqua, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $5,000 and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Gogal's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Gogal consented to the described sanctions and to the entry of findings that he engaged in outside business activities for compensation without providing prompt written notice to his member firm. The findings stated that Gogal's firm instituted a policy prohibiting the sale of equity index annuities (EIAs) except through its General Agency (GA) platform. In an annual certification, Gogal attested to his understanding of the firm's EIA policy. The findings also stated that Gogal sold EIAs to firm customers and received compensation for those sales. Gogal's sales, however, were placed through the issuer, not through the firm's GA platform. Gogal did not provide notice of the sales to the firm and he did not otherwise have its permission to place trades in the EIAs directly with the issuer.

The suspension is in effect from June 18, 2012, through September 17, 2012. (**FINRA Case #2010023886801**)

Andre Mari Gonzales (CRD #5494315, Registered Representative, High Point, North Carolina) was barred from association with any FINRA member in any capacity. The NAC dismissed Gonzales' appeal of an OHO default decision as abandoned; the default decision constituted FINRA's final disciplinary action. The sanction was based on findings that Gonzales failed to respond to FINRA requests for information. The findings stated that Gonzales failed to timely respond and to respond entirely to FINRA requests for information and documents concerning alteration of bank documents. (**FINRA Case #2010024330002**)

John Robert Graff (CRD #2985000, Registered Representative, Sicklerville, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $5,000 and suspended from association with any FINRA member in any capacity for 30 business days. The fine must be paid either immediately upon Graff's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Graff consented to the described sanctions and to the entry of findings that he placed discretionary transactions in customers' securities accounts without his customers' written authorization to place discretionary trades, and without his member firms'

approval of Graff's use of discretion in his customers' accounts. The findings stated that Graff falsely represented on one firm's annual compliance certification questionnaire that he had not exercised discretion in any customer's account.

The suspension was in effect from July 2, 2012, through August 13, 2012. (**FINRA Case #2011026346701**)

Geoffrey Lee Hall (CRD #5366001, Registered Representative, Mission, Texas) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $5,000 and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Hall's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Hall consented to the described sanctions and to the entry of findings that he borrowed $25,000 from a customer without his member firm's prior written approval, contrary to his firm's WSPs requiring him to obtain prior written approval. Hall repaid the $25,000. The findings stated that Hall borrowed $50,000 from a customer without his member firm's prior written approval; and to date, he has not repaid the customer. The customer filed a civil action against Hall to recover the money, and the action was pending as of the date of the Letter of Acceptance, Waiver and Consent. The findings also included that Hall represented to his member firm in an audit questionnaire that he had not borrowed from, or loaned money to, any client other than an immediate family member, in any amount.

The suspension is in effect from June 18, 2012, through September 17, 2012. (**FINRA Case #2011028453601**)

Bradley Hampton (CRD #5636883, Associated Person, Fairview Heights, Illinois) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Hampton provided false information to his member firm. The findings stated that Hampton created a fictitious email from FINRA BrokerCheck® purporting to notify him that he was registered with FINRA and that he held a Series 7 license. When confronted about the discrepancy, Hampton claimed he was having trouble getting his registration to appear on BrokerCheck and that he had his test score at home. The firm confronted Hampton with the fictitious email, and he admitted he had fabricated it. The firm terminated Hampton that day. The findings also stated that Hampton failed to respond to FINRA requests to appear for testimony. (**FINRA Case #2011028190501**)

Clark E. Harmon (CRD #2388116, Registered Representative, Worthington, Ohio) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $10,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Harmon's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Harmon consented to the described sanctions and to the entry of findings that he willfully

failed to disclose tax liens and judgments to his member firm, and failed to amend his Forms U4 to disclose the material information. The findings stated that Harmon's failure to disclose the information was aggravated by the fact that on numerous occasions, over nine years, he submitted attestations or reports, or met in person with firm auditors, and confirmed that he understood his obligation to immediately report any changes to his Form U4, including to disclose bankruptcies, liens and judgments. The findings also stated that while registered with his firm, Harmon filed for bankruptcy protection and submitted reports to his firm attesting that he understood his obligation to keep his Form U4 current and told a firm compliance auditor that he might be filing for bankruptcy, but failed to disclose he had already filed. After reporting to his firm's registration department that he had filed for bankruptcy protection, Harmon finally amended his Form U4 to disclose the bankruptcy. Harmon failed to promptly disclose the bankruptcy to his firm and willfully failed to promptly amend his Form U4 with the information.

The suspension is in effect from June 18, 2012, through December 17, 2012. (**FINRA Case #2010023722701**)

Jeremy Michael Hart (CRD #2839085, Registered Representative, Canon City, Colorado) submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Hart consented to the described sanction and to the entry of findings that he participated in the sale of unsecured promissory notes sold by a real estate partnership with an approximate aggregate value of $1,347,000 to investors, most of whom were firm customers. The findings stated that all of the investors, except one, received promissory notes that bore different interest rates and had different repayment provisions, but the notes did not specify whether interest was to accrue per annum, over the life of the loan or in some other manner. Investor funds were then deposited into two bank accounts. The findings also stated that the company's founder provided Hart, or entities through which he conducted business, funds from a bank account totaling approximately $972,054, of which he and his entities repaid approximately $126,703, thereby receiving net proceeds of $845,350. Hart executed a promissory note showing that a business he owned borrowed $448,583.43 from the company. The findings also included that Hart pled guilty to one count of felony theft and one count of felony securities fraud concerning investments made on behalf of numerous company investors and is currently incarcerated. Hart was ordered to pay a total of $3,487,523 in restitution to investors.

FINRA found that Hart created a company to offer online investment courses to the public and sold company promissory notes with an approximate aggregate value of $1,434,000 to investors, some of whom were firm customers. The promissory notes bore different interest rates and had different repayment provisions, but included a date on which all outstanding interest and principal were due. FINRA also found that none of the investors whose notes matured received a return of principal as promised, and Hart has represented that investors whose notes are to mature in the future will not be repaid. In addition, FINRA determined

that the promissory notes were unregistered securities and the transactions in which Hart participated occurred outside the regular course and scope of his association with his firms. The firms did not participate in and were unaware of either offering. Hart did not provide either firm with prior written notification describing the proposed transactions, his proposed role therein, and stating whether he had received, or might receive, selling compensation; nor did he receive written permission from either firm. Moreover, FINRA found that customers who invested with Hart believed they were investing in an annuity, a bank product, bonds or a fund, and were not purchasing promissory notes. Instead, the customer funds were invested in the two companies to assist with their operations. Furthermore, FINRA found that Hart failed to respond to FINRA requests for information and documents. (**FINRA Case #2009019060901**)

Don Eric Harter (CRD #4197875, Registered Representative, Lancaster, Ohio) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $10,000 and suspended from association with any FINRA member in any capacity for 30 business days. The fine must be paid either immediately upon Harter's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Harter consented to the described sanctions and to the entry of findings that he exercised discretion in effecting hundreds of securities transactions in customers' accounts without prior written authorization from any of the customers or his member firm's written acceptance to exercise discretion in the accounts. The findings stated that the firm's WSPs prohibited the use of discretion in customer accounts that were not advisory accounts.

The suspension was in effect from July 2, 2012, through August 13, 2012. (**FINRA Case #2009017061101**)

Eric Richard Hemingway (CRD #2945792, Registered Representative, Maple Grove, Minnesota) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $5,000 and suspended from association with any FINRA member in any capacity for four months. Without admitting or denying the findings, Hemingway consented to the described sanctions and to entry of findings that his member firm permitted the sale of EIAs, but then changed its policy to prohibit the sale of EIAs. Hemingway's supervisor gave him permission to continue servicing and receiving compensation from existing EIA customers, even though his firm's policy prohibited him from selling new contracts to these customers. The findings stated that Hemingway continued to sell EIAs to customers, including firm customers; some of the new policies were purchased by customers who previously purchased EIAs with Hemingway when his firm permitted him to do so, and the funding for the new contracts came from old contracts. Fourteen policies were sold to customers making an EIA purchase for the first time. The findings also stated that Hemingway earned approximately $300,000 in commissions from the sale of EIAs; approximately $53,000 were related to policies sold to first-time customers. The findings

also included that Hemingway did not provide his member firm with prompt written notice of this outside business activity and did not receive approval to sell new EIAs after a specified date.

The suspension is in effect from July 16, 2012, through November 15, 2012. (**FINRA Case #2010022648601**)

Alfred David Holland Jr. (CRD #1576896, Registered Principal, Nancy, Kentucky) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $10,000 and suspended from association with any FINRA member in any capacity for 20 business days. Without admitting or denying the findings, Holland consented to the described sanctions and to the entry of findings that he purchased different ETFs for a customer's account without the customer's knowledge or consent, and in the absence of written or oral authorization to exercise discretion in the customer's account. The total purchase price for the unauthorized purchases was $51,683.77 and the total commissions charged were $1,048.79. The findings stated that the firm cancelled the purchases, reversed the commission charges and restored the customer's account to its original value.

The suspension was in effect from July 2, 2012, through July 30, 2012. (**FINRA Case #2009020334001**)

Craig Lawrence Hom (CRD #2722888, Registered Principal, Belmont, California) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Hom consented to the described sanction and to the entry of findings that his member firm's president authorized him to engage in proprietary trading on behalf of, and for the benefit of, the firm. As the firm's agent, Hom had a duty to the firm to act solely for the firm's benefit and not to compete with, or acquire interests adverse to, the firm. The findings stated that Hom effected a series of unauthorized transactions between the firm's proprietary accounts and a personal account he maintained at another broker-dealer, by which he caused the firm to sell securities from its proprietary accounts to his personal account, and then promptly thereafter, caused the firm to repurchase the same securities from his personal account at a higher price, resulting in a profit to Hom and a corresponding loss to the firm. The findings also stated that, in some instances, Hom caused the firm to purchase securities from his personal account and then promptly resell the same securities to his personal account at a lower price. In total, Hom effected 38 sets of transactions in the after-hours market on New York Stock Exchange (NYSE) Archipelago Exchange (ARCA) in which he caused the firm to sell securities from its proprietary accounts to him, and then caused the firm to repurchase the same securities from his personal account at a higher price, or caused the firm to purchase securities from his personal account and then caused the firm to resell the securities to his personal account at a lower price. The findings also included that Hom realized an aggregate profit of $31,670.50, while his firm realized a corresponding loss of $31,670.50. When Hom placed the orders on

behalf of the firm's proprietary accounts and his personal account on ARCA, he intended for the orders to be matched and executed against each other in order to generate a profit for himself. Hom knew that for every dollar in profit he realized, the firm realized an equal corresponding loss. Hom knew the firm did not authorize the transactions and were done without the firm's knowledge or consent.

FINRA found that by effecting the transactions, Hom caused quotations and last sale reports regarding the securities to be published, and knew that such quotations and transaction reports were not *bona fide*, but were published as a result of his activities. FINRA also found that Hom opened an account with another FINRA member firm and failed to notify the firm, in writing and prior to opening the account, or prior to placing an initial order for the purchase or sale of a security in the account, of his association with his member firm. In addition, FINRA determined that Hom opened a joint account at another member firm and failed to notify the firm, in writing, and prior to opening the account or prior to placing an initial order for the purchase or sale of a security in the account, of his association with his firm. (**FINRA Case #2009018253302**)

Bruce Parish Hutson (CRD #2582087, Registered Supervisor, Whitefish Bay, Wisconsin) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $5,000 and suspended from association with any FINRA member in any capacity for five months. The fine must be paid either immediately upon Hutson's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Hutson consented to the described sanctions and to the entry of findings that he willfully failed to disclose to his firm his arrest, charge and plea in connection with a misdemeanor, and failed to amend his Form U4 to reflect the theft-related misdemeanor charge. The findings stated that Hutson completed his firm's annual compliance questionnaire, in which he falsely responded "no" when asked if he had been arrested and/or charged with a felony, misdemeanor in the past 12-month period or had any statutory disqualifications.

The suspension is in effect from July 16, 2012, through December 15, 2012. (**FINRA Case #2010023943602**)

France Greg Huynh (CRD #4999598, Registered Representative, Hayward, California) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Huynh consented to the described sanction and to the entry of findings that his member firm's president authorized him to engage in proprietary trading on behalf of, and for the benefit of, the firm. As the firm's agent, Huynh had a duty to the firm to act solely for the firm's benefit and not to compete with, or acquire interest adverse to, the firm. The findings stated that Huynh effected a series of unauthorized transactions between the firm's proprietary accounts and either personal account or IRAs he maintained at another

broker-dealer, by which he caused the firm to sell securities from its proprietary accounts to his personal account or IRA, and then promptly thereafter, caused the firm to repurchase the same securities from his personal account or IRA at a higher price, resulting in a profit to Huynh and a corresponding loss to the firm. In some instances, Huynh caused the firm to purchase securities from his personal account and then promptly resell the same securities to his personal account at a lower price. In total, Huynh effected 25 sets of transactions in the after-hours market on ARCA, in which he caused the firm to sell securities from its proprietary accounts to him, and then caused the firm to repurchase the same securities from his accounts at a higher price, or caused the firm to purchase securities from his accounts and then caused the firm to resell the securities to his accounts at a lower price. The findings also stated that Huynh realized an aggregate profit of $17,075, while his firm realized a corresponding loss of $17,075. When Huynh placed the orders on behalf of the firm's proprietary accounts and his personal account on ARCA, he intended for the orders to be matched and executed against each other in order to generate a profit for himself. Huynh knew that for every dollar in profit he realized, the firm realized an equal corresponding loss. Huynh knew the firm did not authorize the transactions and were done without the firm's knowledge or consent.

FINRA found that by effecting the transactions, Huynh caused quotations and last sale reports regarding the securities to be published, and knew that such quotations and transaction reports were not *bona fide*, but were published as a result of his activities. FINRA also found that Huynh opened an account with another FINRA member and failed to notify the firm in writing and prior to opening the account, or prior to placing an initial order for the purchase or sale of a security in the account, of his association with his member firm. FINRA also found that Huynh opened an IRA at another member firm and failed to notify the firm in writing and prior to opening the account or prior to placing an initial order for the purchase or sale of a security in the account of his association with his firm. (**FINRA Case #2009018253301**)

Marcelo Ivan Jacir (CRD #4860487, Registered Representative, Weston, Florida) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Jacir consented to the described sanction and to the entry of findings that he directed two individuals, one of whom was a customer of his member firm, to deposit checks totaling $37,500 for an investment in a company into his personal checking account. The findings stated that Jacir converted the funds to his own use and benefit by making cash withdrawals and using the funds to pay personal expenses. (**FINRA Case #2010023816401**)

Deborah Kay Johns (CRD #4566509, Registered Representative, Roseville, California) submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Johns consented to the described sanction and to the entry of findings that she entered into an outside business activity, was paid $10,000 for services rendered, and

never provided notice to her member firm, written or otherwise, to disclose the business arrangement. The findings stated that while associated with another member firm, Johns borrowed $14,000 from her firm's customer, even though the firm prohibited its registered representatives from borrowing money from its customers. The findings also stated that Johns failed to respond fully and completely to FINRA requests for information and documents regarding borrowing funds form a customer. (**FINRA Case #2011027973201**)

William Thomas Johnson Jr. (CRD #1189117, Registered Representative, North Palm Beach, Florida) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Johnson consented to the described sanction and to the entry of findings that he received approximately $47,000 from a customer after Johnson made the representation, which was false when made, that he would use the funds to purchase corporate bonds for the customer. Johnson accepted the funds, deposited them into a bank account under his control and made improper use of the funds, which included payment of personal expenses, and never purchased the corporate bonds. The findings also stated that Johnson received approximately $53,000 from another customer after he made the representation, which was false when made, that he would use the funds to purchase a certificate of deposit (CD) for the customer. Johnson accepted the funds, deposited them into a bank account under his control and made improper use of the funds, which included payment of personal expenses, and never purchased the CD. Johnson's misrepresentation to his customer and improper use and conversion of his customer's funds constituted a failure in the conduct of his business to observe high standards of commercial honor and just and equitable principles of trade. (**FINRA Case #2011029514101**)

Martin Joseph Joyce (CRD #2143724, Registered Representative, Winchester, Massachusetts) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $7,500, suspended from association with any FINRA member in any capacity for 18 months, and ordered to disgorge $40,000 to a customer. If the customer has not yet been made whole, Joyce will pay him the $40,000, plus interest, in restitution. However, if the customer has already been made whole by any third party, Joyce will pay the $40,000, in addition to the $7,500 amount above, as a fine to FINRA. The fine and restitution must be paid either immediately upon Joyce's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier.

Without admitting or denying the findings, Joyce consented to the described sanctions and to the entry of findings that he borrowed approximately $220,000 from a customer at his member firm, which was secured by a promissory note and was supposed to be repaid by a certain date. Joyce wrote checks to the customer that did not clear and were returned by Joyce's bank for insufficient funds. Joyce paid back some portion of the loan but currently still owes $40,000 on the loan. The findings stated that Joyce did not notify his firm about the loan. The firm had a policy prohibiting representatives from borrowing

money from customers without the firm's prior written approval unless the client was an immediate family member or a financial institution regularly in the business of providing loans, neither of which applies to the loan from the customer. The findings also stated that Joyce completed a field inspection report in which he falsely stated to the firm that he had not borrowed money from any customers. The findings also included that Joyce charged approximately $60,000 worth of personal expenses using a corporate credit card that the firm had provided to him for business expenses, contrary to his firm's policies prohibiting using the corporate credit card for personal expenses. FINRA found that Joyce wrote $30,000 checks to the credit card issuer without sufficient funds in his account to cover them. Joyce's corporate credit card was canceled. Joyce failed to pay the outstanding charges until months after the charges were incurred. FINRA also found that Joyce wrote other checks (in addition to the checks he wrote to the customer) from his personal checking account in the amount of approximately $640,000 knowing that he did not have sufficient funds in his account to cover them.

The suspension is in effect from June 18, 2012, through December 17, 2013. (**FINRA Case #2010023096301**)

Christopher Dean Kline (CRD #2597293, Registered Representative, Baraboo, Wisconsin) submitted an Offer of Settlement in which he was fined $77,523.67, which includes disgorgement of $67,523.67 in financial benefits, and suspended from association with any FINRA member in any capacity for nine months. The fine must be paid either immediately upon Kline's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the allegations, Kline consented to the described sanctions and to the entry of findings that he participated in private securities transactions, for compensation, without providing prior notice to his member firm of his proposed roles in, or the selling compensation he might receive from, the transactions.

The suspension is in effect from July 2, 2012, through April 1, 2013. (**FINRA Case #2009016520001**)

Harry Martin Lefkowitz (CRD #1454925, Registered Principal, Goshen, New York) and Joseph Gasper Messina (CRD #2468181, Registered Principal, Warwick, New York) submitted Offers of Settlement in which Lefkowitz was fined $5,000 and suspended from association with any FINRA member in any principal capacity for two months. Messina was fined $15,000 and suspended from association with any FINRA member in any principal capacity for six months. The fines must be paid either immediately upon Lefkowitz's and Messina's reassociation with a FINRA member firm following their suspensions, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the allegations, Lefkowitz and Messina consented to the described sanctions and to the entry of findings that their member firm, acting through Lefkowitz and Messina, sold at least 7.6 billion shares of penny stock

in microcap issuers for approximately $2 million on behalf of and at the direction of a customer through hedge funds that the customer managed and controlled. The findings stated that the firm sold those shares to its affiliated market-maker. The customer's hedge funds acted in concert in connection with these sales, which typically occurred in all of the accounts the same day. The customer determined how the shares would be allocated among the hedge funds and provided Lefkowitz, Messina or other firm employees with instructions of how many shares would be sold through each account. The findings also stated that it was Lefkowitz and Messina's responsibility to ensure that the customer's stock was eligible for sale, but they relied on the customer's representations regarding, among other things, his affiliation status with the stock issuer, his percentage of share ownership, the total shares outstanding and his previous trading history involving the stock in question. Lefkowitz and Messina failed to independently verify this information. Neither Lefkowitz nor Messina conducted the necessary due diligence on their firm's behalf to ensure that the customer's stock was eligible for sale. The findings also included that at no time was a registration statement in effect for the customer's stock, and the sales were not eligible for exemption from registration. The customer's sales of penny stocks through the various hedge fund accounts at the firm generated approximately $400,000 in commissions for the firm.

FINRA found that the firm's written AML procedures required it to monitor, detect and report suspicious activity. If a transaction was identified as potentially suspicious, Messina, as the firm's AMLCO, was required to determine whether or not and how to further investigate the matter to ascertain whether a Suspicious Activity Report (SAR) filing was required. The firm, acting through Messina, failed to monitor for, detect and investigate suspicious transactions and/or file a SAR in the face of multiple red flags related to the customer's accounts. FINRA also found that the firm, acting through Messina, failed to implement its Customer Identification Program and failed to obtain required customer information verifying each customer's status as a legal entity. In addition, FINRA determined that the firm, acting through Messina, failed to develop and implement a reasonably designed AML program. The firm utilized template-type procedures not tailored to address its primary source of revenue, which was the unsolicited liquidation of penny stocks. The firm failed to utilize AML-related exception reports its clearing firm provided. The firm, acting through Messina, failed to implement its due diligence requirement, in that on several instances the firm opened new accounts for customers that were entities such as limited liability companies and partnerships, but failed to conduct adequate due diligence. Moreover, FINRA found that the firm, acting through Messina, failed to conduct adequate independent testing of its AML program for several years. The firm's tests for these years were, at best, cursory in nature. For each year, Messina selected the sample of account activity that was reviewed by the individual conducting the test, but never provided this individual with any transaction information related to the accounts belonging to the customer's hedge funds, which were one of the firm's primary sources of commissions. By limiting the scope of the test, Messina compromised the independence, effectiveness

and adequacy of the test. Furthermore, FINRA found that the firm, acting through Messina, failed to establish and maintain a supervisory system, and establish, maintain and enforce WSPs reasonably designed to achieve compliance with the applicable securities laws, regulations and FINRA rules related to the sale and distribution of unregistered securities, including the sale of restricted and control stock under Rule 144 of the Securities Act. The findings also stated that the firm's affiliated market-maker, acting through Messina, failed to develop and implement a reasonably designed AML program. The affiliated firm did not establish procedures to reasonably address the AML risks associated with its market-making business. Its procedures were not tailored to address the AML risks presented by its relationship with Messina's firm.

Lefkowitz's suspension is in effect from June 18, 2012, through August 17, 2012. Messina's suspension is in effect from June 18, 2012, through December 17, 2012. (**FINRA Case #2010021034801**)

William Mitchell Lefkowitz (CRD #1170503, Registered Principal, Livingston, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $5,000 and suspended from association with any FINRA member in any principal capacity for 30 days. Without admitting or denying the findings, Lefkowitz consented to the described sanctions and to the entry of findings that he failed to take appropriate action to reasonably supervise a registered representative at his member firm to detect and prevent his violations. The findings stated that Lefkowitz, among other things, failed to take reasonable steps to follow up on certain indications of potential misconduct that should have alerted him to the registered representative's violations. The registered representative's unauthorized trades in a customer's account involved purchases that were inconsistent with the customer's trading history. The findings also stated that the customer made the initial stock purchase on margin and never paid for it. Notwithstanding the seven-day period between the purchase of the shares and their involuntary sale due to non-payment, Lefkowitz never requested a Regulation T extension on the customer's behalf. The findings also included that when Lefkowitz questioned the registered representative regarding why the customer had not paid for the investment, the registered representative explained that the customer was purportedly having difficulty wiring funds from his account. Lefkowitz never attempted to contact the customer, who worked overseas, to verify this explanation or to determine if the trade was authorized. The shares were involuntarily sold at an approximate $10,000 loss to the customer and the representative received approximately $9,000 from the unauthorized trade.

FINRA found that approximately one month after the first transaction, the registered representative submitted the same trade order for the customer's account. Lefkowitz approved the transaction and never required the registered representative to ensure that there were sufficient funds in the customer's account prior to placing the trade. FINRA also found that Lefkowitz never questioned the registered representative as to why the customer was attempting to make the identical investment that went unpaid the prior

month. Again, the trade was never paid for and Lefkowitz did not seek a Regulation T extension on the customer's behalf. The shares were involuntarily sold at an approximate $27,000 loss to the customer, and the representative received approximately $7,200 from the unauthorized trade. In addition, FINRA determined that the registered representative provided the same explanation as the prior transaction regarding why the customer had not paid for the shares and, again, Lefkowitz never attempted to contact the customer to verify the explanation or determine whether the trade was authorized.

The suspension is in effect from August 6, 2012, through September 4, 2012. (**FINRA Case #2011027593201**)

Randal Kirk Levander (CRD #4879311, Registered Representative, Windber, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Levander consented to the described sanction and to the entry of findings that an insurance customer provided Levander with instructions to submit a personal liability umbrella policy (PLUP) application to Levander's insurance company on his behalf. The customer also requested a homeowners' insurance policy and an automobile insurance policy. The homeowners' and automobile policies were processed and put into effect. The customer gave Levander a check for $180, the full amount for the quoted annual premium on the PLUP. Levander failed to obtain all of the information necessary to complete and submit the PLUP application to his insurance company and failed to timely deposit the premium check to the company account. Levander did not use the premium check for his own benefit but never submitted the customer's PLUP application to the company. The findings also stated that the customer contacted Levander concerning the status of the PLUP and the whereabouts of the written policy. Levander never told the customer that he had failed to complete the PLUP application and that, as a result, the customer did not have an umbrella policy in place through the company. Levander created and issued a fictitious certificate of liability insurance (COI) to the customer, which purported to show that a PLUP was in place for the customer. The findings also included that Levander admitted to his failure to process the policy and to the creation of the fictitious COI. The $180 that the customer provided for the PLUP premium was returned to him. (**FINRA Case #2010023314701**)

Edward C. Liu aka Chun Ku Liu (CRD #2190795, Registered Principal, San Pedro, California) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $30,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Liu's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Liu consented to the described sanctions and to the entry of findings that he sold annuity contracts to customers that were not new sales but exchanges for annuity contracts the customers had earlier liquidated. The findings stated that each of the

sales required that Liu submit electronically to the firm answers to numerous questions, including questions related to annuity exchanges. Each of these questions asked whether the transaction was being done in connection with an annuity exchange, but Liu falsely indicated that each sale was not an annuity exchange. The findings also stated that in completing and submitting information on the firm's automated annuity order entry forms that was materially false and/or inaccurate, Liu caused the firm to maintain false or inaccurate records. The findings also included that by falsely answering these questions and portraying the transactions as new sales and not annuity exchanges, Liu was able to avoid heightened supervisory scrutiny of his annuity transactions.

The suspension is in effect from July 2, 2012, through January 1, 2013. (**FINRA Case #2009021076601**)

William John Luerman Jr. (CRD #4998114, Registered Representative, Hoboken, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $10,000 and suspended from association with any FINRA member in any capacity for 18 months. The fine must be paid either immediately upon Luerman's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Luerman consented to the described sanctions and to the entry of findings that he discovered that he could circumvent the firm's electronic system, which did not permit representatives to loan out shares of a security. On numerous occasions, Leurman falsely reported that another financial institution would be loaning shares of a security to the firm. By reporting that another financial institution would be loaning shares of a security to the firm, Luerman caused the firm's electronic system to make non-lendable shares of that security, which were already on deposit in the firm's Depository Trust Company (DTC) account, available for loan. Luerman engaged in this conduct in order to effect more stock loan transactions than he would otherwise have been able to effect, and to provide prospective borrowers with locates for scarce securities that were in high demand. The findings stated that in each instance of the fictitious loans, Luerman falsely stated that one of the various financial institutions that frequently loaned securities to the firm was the counterparty and had agreed to the fictitious transaction. For each of the fictitious transactions, Luerman also invented and reported a false lending fee. The firm did not receive any securities in connection with the fictitious transactions, and the firm' systems automatically cancelled these transactions.

The suspension is in effect from June 18, 2012, through December 17, 2013. (**FINRA Case #2011027196501**)

Michael Shawn McGee (CRD #2639358, Registered Representative, Detroit, Michigan) submitted an Offer of Settlement in which he was fined $5,000 and suspended from association with any FINRA member in any capacity for three months. Without admitting or denying the allegations, McGee consented to the described sanctions and to the entry of

findings that he engaged in outside business activities, for compensation, without proving prompt written notice to his member firm. The findings stated that McGee induced a firm customer to withdraw $20,000.70 from her IRA and combine it with other funds to give McGee a $21,000 check, made payable to McGee, who then restrictively endorsed it to a real estate company McGee's relatives owned. The findings also stated that McGee deposited the customer's check into a checking account belonging to the real estate company over which he and his relatives had signatory authority. The findings also included that McGee used a portion of the customer's funds to pay his restaurant's expenses, without the customer's knowledge and without any agreement or arrangement whereby she would share in the restaurant's profits or benefit in any way from his use of her funds. FINRA found that after the customer questioned the firm about her $21,000 payment to McGee, he remitted that amount to the firm which then returned the funds to the customer.

The suspension is in effect from July 2, 2012, through October 1, 2012. (**FINRA Case #2009017511901**)

Daniel Markus Micha (CRD #1074542, Registered Representative, Port Washington, Wisconsin) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $10,000 and suspended from association with any FINRA member in any capacity for 20 business days. Without admitting or denying the findings, Micha consented to the described sanctions and to the entry of findings that he effected the sale of securities positions totaling approximately $326,000 in a customer's fee-based accounts without the customer's authorization. The findings stated that after Micha liquidated the customer's holdings, the customer sent him emails in which she complained that he had sold her securities without her permission. The findings also stated that Micha replied to both emails but failed to notify his member firm of the written complaint because he did not feel that the customer's allegations were of sound substance or truth, so he willfully failed to have his Form U4 amended to disclose the customer complaint.

The suspension was in effect from July 16, 2012, through August 10, 2012. (**FINRA Case #2010023805301**)

Thomas John Marrollo Sr. (CRD #1052122, Registered Representative, Exton, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $2,500 and suspended from association with any FINRA member in any capacity for one month. The fine must be paid either immediately upon Marrollo's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Marrollo consented to the described sanctions and to the entry of findings that he failed to amend his Form U4 to disclose a material fact.

The suspension is in effect from July 16, 2012, through August 15, 2012. (**FINRA Case #2010024502201**)

Jan Robert Mueller (CRD #342083, Registered Representative, Peoria, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $5,000 and suspended from association with any FINRA member in any capacity for 10 business days. Without admitting or denying the findings, Mueller consented to the described sanctions and to the entry of findings that he exercised discretionary power in a customer's account without the customer's written authorization or his member firm's written acceptance of the account as discretionary.

The suspension was in effect from July 2, 2012, through July 16, 2012. (**FINRA Case #2011028759201**)

David R. Newsom (CRD #4955430, Registered Representative, Kountze, 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, Newsom consented to the described sanction and to the entry of findings that he converted more than $400,000 from several bank customers' accounts at his member firm's affiliate. The findings stated that in each instance, Newsom caused funds to be withdrawn by having cashier's checks drawn on their accounts and made payable to his personal accounts at other financial institutions. Newsom withdrew the funds from these customers' accounts, without the customers' knowledge or permission. The findings also stated that Newsom signed and issued several letters, on bank letterhead, to various entities confirming that an entity had a purported $586 million line of credit at the bank for the purchase of petroleum products. Newsom signed each letter as "David Newsom" or "David Newsom/Vice President of Investments" when he was not employed by the bank and did not have any authority to issue any correspondence on the bank's behalf. Newsom neither sought nor obtained his member firm's approval to issue the correspondence. The letters were materially false because the entity did not have a bank line of credit, whatsoever. The findings also included that Newsom failed to respond to FINRA requests for information and documents. (**FINRA Case #2011029091701**)

James Alan Nowicki (CRD #2263143, Registered Representative, Rochester, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was censured and suspended from association with any FINRA member in any capacity for three months. In light of Nowicki's financial status, no monetary sanctions have been imposed. Without admitting or denying the findings, Nowicki consented to the described sanctions and to the entry of findings that he willfully failed to timely disclose liens and a judgment totaling approximately $203,137 on his Form U4. The findings stated that Nowicki completed numerous annual compliance questionnaires in which he affirmed his understanding that he was required to disclose certain financial information on his Form U4, including unsatisfied judgments and liens. Nowicki's member firm also had written policies and procedures related to judgments and liens that required him to promptly report such occurrences by filing an amended Form U4. The findings also stated that when the firm learned of his judgment and liens through a credit report, it fined him $500 and placed him

on enhanced supervision for one year. Nowicki was required to meet with his supervisor on a monthly basis to review his financial matters, was reminded of his obligation to disclose any reportable financial matters such as judgments and liens, and was notified that his failure to timely report any additional judgments and liens could be grounds for termination of his employment. The findings also included that subsequently, a new judgment for $25,778 was filed against Nowicki, but he failed to timely disclose it on his Form U4. The firm learned of the judgment when it requested an updated credit report.

The suspension is in effect from July 2, 2012, through October 1, 2012. (**FINRA Case #2010025245501**)

Jason Matthew Pennington (CRD #2522216, Registered Representative, Bel Aire, Kansas) was barred from association with any FINRA member in any capacity. The Hearing Officer did not order restitution because the U.S. Attorney's Office has a pending action to seize Pennington's real and personal property for the benefit of the estate and trust beneficiaries. The sanction was based on findings that a customer bought a $1,325,000 life insurance policy from Pennington and after she passed away, he told the beneficiaries that the bulk of the estate was to be donated to charities, but refused to disclose the names and amounts, claiming that the customer had requested he not do so. The findings stated that after several requests, Pennington provided the beneficiaries with a false trust agreement with the amounts and percentages to be paid to the beneficiaries crossed out, including the two designated charities. The findings also stated that the customer's attorney informed the beneficiaries that the agreement was not legal and was not the agreement he prepared. The beneficiaries demanded a legal copy of the trust and Pennington gave them another false trust agreement, which included entries he had previously crossed out. The findings also included that Pennington resigned as trustee and documents obtained by the successor trustee revealed that Pennington had falsified trust records and had deposited a $1,049,205 check from an insurance company into the trust account, but his accounting to the beneficiaries did not reflect this deposit and the charitable beneficiaries did not receive any funds. Pennington made disbursements totaling $67,000 from the trust to personal accounts he controlled, but the accounting he provided did not reflect this. FINRA found that the customer had requested a partial withdrawal of $278,250 from her life insurance policy. The check was cashed and deposited in bank accounts Pennington or a relative owned or controlled. FINRA also found that Pennington used more than $50,000 to pay off loans and wrote checks to himself from the trust's checking account totaling $77,000. In addition, FINRA determined that Pennington failed to respond to FINRA requests for information. (**FINRA Case #2010023483501**)

Richard Wayne Preston (CRD #2396186, Registered Representative, Hope, Maine) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $7,500 and suspended from association with any FINRA member in any capacity for three months and 10 days. The fine must be paid either immediately upon Preston's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application

or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Preston consented to the described sanctions and to the entry of findings that he participated in private securities transactions without providing prior written notice to, and obtaining prior written approval from, his member firm. The findings stated that Preston was involved with the sale of approximately $300,000 in promissory notes and common stock, as part of a private offering, to investors, both of whom were the firm's customers. The findings also stated that Preston did not receive any commissions from the investments. Preston also personally invested $20,000 in the offering. The findings also included that Preston borrowed $20,000 from one of his firm customers so that he could personally invest in the private offering. Preston repaid the $20,000 approximately two days later after liquidating other investments. FINRA found that Preston did not disclose the loan to his firm. The firm prohibited loans from customers without prior approval, and the firm's written procedures did not permit this type of loan.

The suspension is in effect from June 18, 2012, through September 27, 2012. (**FINRA Case #2011028817701**)

John Deene Rausch (CRD #1587767, Registered Representative, Grand Ledge, Michigan) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Rausch failed to timely and completely respond to FINRA requests for information and documents, and to appear for an on-the-record interview. The findings stated that Rausch willfully failed to disclose tax liens on his Form U4 and failed to disclose the pending tax liens against him on his member firm's annual compliance questionnaire. The findings also stated that Rausch participated in outside business activities on behalf of insurance companies contrary to a letter submitted to his member firm that he would cease these activities and would henceforth submit all insurance business (fixed and variable) to his firm for review and approval. Rausch's tax records reflect that he earned $57,166.02 one year from sales of fixed insurance products on an insurance company's behalf. The findings also included that Rausch's failure to disclose his tax liens and outside business activities on his annual firm certification is considered material. FINRA found that Rausch failed to respond completely and timely to FINRA requests for information and to appear for an on-the-record interview. (**FINRA Case #2009017918001**)

Chad A. Revelle (CRD #5114326, Registered Representative, Franklinton, North Carolina) 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, Revelle consented to the described sanction and to the entry of findings that he failed to respond to FINRA requests to provide investigative testimony regarding a former customer's initiation of an arbitration proceeding alleging misrepresentation, omission of material facts, failure to investigate to learn the essential facts of an investment and an unsuitable recommendation. (**FINRA Case #2010023076801**)

James Albert Roberts III (CRD #2240769, Registered Representative, Hazelton, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $5,000 and suspended from association with any FINRA member in any capacity for four months. The fine must be paid either immediately upon Roberts' reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Roberts consented to the described sanctions and to the entry of findings that he sold EIAs to people outside the scope of his employment with his member firm, and without providing the firm with prompt written notice of the business activity. The findings stated that Roberts' undisclosed EIA sales totaled about $485,000, and he received approximately $40,000 as compensation for the transactions. The findings also stated that in a firm compliance questionnaire, Roberts falsely certified that he had sold only EIAs that the firm had approved.

The suspension is in effect from July 2, 2012, through November 1, 2012. (**FINRA Case #2010023887401**)

Alejandro C. Rotundo (CRD #4627887, Registered Representative, Miami, Florida) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $5,000 and suspended from association with any FINRA member in any capacity for 30 business days. The fine must be paid either immediately upon Rotundo's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Rotundo consented to the described sanctions and to the entry of findings that he executed option trades in a customer's account without the customer's written authorization and without his member firm's acceptance of the account as discretionary. The findings stated that Rotundo's discretionary trading activity resulted in customer losses of $489,230, which his firm reimbursed to the customer.

The suspension was in effect from June 18, 2012, through July 30, 2012. (**FINRA Case #2010024417501**)

Valerie Helen Silverstein (CRD #1413711, Registered Representative, Coconut Creek, Florida) submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Silverstein consented to the described sanction and to the entry of findings that she had a pre-existing relationship with an individual when he became a customer of her member firm. In an effort to advance a fraudulent scheme to misappropriate funds from the firm, Silverstein created a false deposit receipt indicating that the customer had deposited a check for $7.8 million into his firm account when he had not. The findings stated that in further promotion of the scheme, Silverstein sent several letters on her firm's letterhead, and one email from her firm's email account, to the customer making various false and misleading statements about the deposit and withdrawal of funds.

The findings also stated that the firm closed the account when the customer attempted to make withdrawals from the account using a debit card, despite never funding the account, and the firm discovered he had a criminal past. The findings also included that, on several occasions, the customer used the documents Silverstein created. The first was when his attorney sent Silverstein's firm a letter demanding that his client's funds be returned. In support of the demand request, the attorney included documents Silverstein created as attachments to the letter. The second and third occasions were when the customer provided the documents to other firm branch offices in an attempt to reopen his account and withdraw funds. (**FINRA Case #2011026509201**)

Nicholas Andrew Snow (CRD #5006454, Registered Representative, Gahanna, Ohio) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $5,000 and suspended from association with any FINRA member in any capacity for 30 business days. The fine must be paid either immediately upon Snow's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Snow consented to the described sanctions and to the entry of findings that he signed customers' names on various forms in connection with the purchase of variable annuities without the customers' authorization.

The suspension was in effect from June 18, 2012, through July 30, 2012. (**FINRA Case #2010023188901**)

Eric Thomas Stern (CRD #4437829, Registered Representative, Phoenix, Arizona) submitted a Letter of Acceptance, Waiver and Consent in which he was censured, fined $10,000 and suspended from association with any FINRA member in any capacity for 18 months. The fine must be paid either immediately upon Stern's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Stern consented to the described sanctions and to the entry of findings that he was granted power of attorney to act on a relative's behalf with respect to brokerage accounts to assist the relative in managing his personal finances. Each power of attorney granted Stern the authority to effect purchases and sales of securities in all types of securities and certain investments, instruct the firm to make payment of monies and/or securities from the firm accounts and to receive and direct payments payable to the relative or for the relative's benefit, and to make transfers and gifts of money, stock, bonds, options, or any other property or investment from the accounts. The findings stated that Stern received check-writing privileges for one of the brokerage accounts and received checks and a debit card in his name for that account. Stern arranged for the relative's monthly living expenses and mortgage to be paid from that account. At times, Stern advanced money to the relative or paid for certain of his expenses from his own funds, but failed to maintain receipts or accounting for the advances or payments. The findings also stated that on numerous occasions over two years, Stern abused his power of attorney; he paid down his

credit card bills from the firm account totaling $68,335.46 using the debit card linked to the relative's account, without telling the relative, without maintaining a record for the payments, and without disclosing the brokerage account to his firm. For more than two years, Stern issued checks from the brokerage account totaling approximately $11,560.66 payable to himself, another relative or to a third-party for Stern's benefit, without telling the relative, or maintaining a record of the reasons for payment. The findings also included that Stern failed to notify his firm in writing that he possessed powers of attorney and trading authority for the relative's three brokerage accounts at another firm, and failed to notify the firm holding the brokerage accounts in writing that he was associated as a registered representative with a member firm.

The suspension is in effect from June 18, 2012, through December 17, 2013. (**FINRA Case #2010022559901**)

Salvatore Anthony Suarino (CRD #1143416, Associated Person, Sayville, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $2,500 and suspended from employment or association with any FINRA member in any capacity for 10 business days. The fine must be paid either immediately upon Suarino's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Suarino consented to the described sanctions and to the entry of findings that he failed to timely amend his Form U4 after he filed a bankruptcy petition in the United States Bankruptcy Court.

The suspension was in effect from July 16, 2012, through July 27, 2012. (**FINRA Case #2010023682101**)

Harold James Swart Jr. (CRD #2912854, Registered Representative, Kissimmee, Florida) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Swart consented to the described sanction and to the entry of findings that he willfully filed inaccurate Form U4s and failed to make other material disclosures on his Form U4s regarding an SEC suspension as well as a related administrative complaint filed by the State of Florida's Board of Accountancy. The findings stated Swart failed to disclose his outside business activities to his member firm and his role as compensated registered agent for numerous additional entities. The findings also stated that Swart provided a misleading response to FINRA in connection with a request for information concerning whether any of his outside business activities had ever been alleged or accused to have breached any contract, engaged in any type of fraud or misrepresentation, engaged in any unfair or unethical business practice or violated any rule, regulation, statute or ordinance of law. Swart's response was misleading because one of his outside business activities was the subject of several filed lawsuits involving such allegations. Swart knew, or should have known, about each of these lawsuits, because, among other things, he was properly served in each of the cases. (**FINRA Case #2009020083301**)

Henry Farnum Thompson Jr. (CRD #2577992, Registered Representative, Sellersville, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $30,000 and suspended from association with any FINRA member in any capacity for 18 months. The fine must be paid either immediately upon Thompson's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Thompson consented to the described sanctions and to the entry of findings that he brought a company's business to his member firm by working with other firm employees to obtain insurance for key company employees and to set up a qualified benefit plan for the company. The firm was not aware that Thompson had been appointed to the company's board of directors until he belatedly filled out a firm outside business activity form indicating the company had asked him to serve on an informal advisory board, and he provided incomplete and inaccurate information when asked about the start date of his relationship with the company and if he was a member of the entity's board of directors or management committee. The findings stated that Thompson's branch office manager did not act on his request to engage in the outside business activity. Thompson submitted an outside business activity approval from about six months later, but failed to indicate on the form that he had been acting in a director capacity for approximately one year. The findings also stated that when Thompson obtained final approval from the firm's chief compliance officer (CCO), it was conditioned that he must not solicit funds, directly or indirectly, from firm clients on behalf of the company or any of its charitable efforts or affiliations. The findings also included that despite these instructions, Thompson participated in the sale of company securities to firm customers and others, both before and after he received permission to be on the company's board of directors. In addition to the CCO's instructions not to solicit funds from firm customers, the firm's policies and procedures also prohibited its registered representatives from participating in any securities transactions outside the scope of their employment with the firm without providing prior written notice to, and receiving prior written approval from, the firm. Thompson never gave the firm notice, written or otherwise, about his participation in the sale of the company's securities.

The suspension is in effect from July 16, 2012, through January 15, 2014. (**FINRA Case #2011026022701**)

Laurie Marie Turchetti (CRD #1771342, Registered Principal, East Greenwich, Rhode Island) submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Turchetti consented to the described sanction and to the entry of findings that she worked with a senior registered representative at her member firm and facilitated his scheme to misappropriate more than $5 million from an elderly customer by issuing purported interest payment checks to the customer from an account the representative controlled; these payment checks were actually the return of the customer's own money. The findings stated that Turchetti had signatory power on the company bank account

and routinely signed and issued the purported interest payment checks, which she knew, or reasonably should have known, were fictitious. The findings also stated that Turchetti routinely issued the customer false documentation the representative created, including fictitious promissory notes and falsified account statements the representative created, which Turchetti knew, or reasonably should have known, were false. (**FINRA Case #2011026750301**)

David Jay VanBeenen (CRD #4200098, Registered Representative, West Linn, Oregon) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, VanBeenen consented to the described sanction and to the entry of findings that he borrowed $240,000 from his member firm's customer to purchase real estate, contrary to his firm's written procedures that prohibited registered representatives from obtaining loans from customers. The customer was not VanBeenen's immediate family member and was not regularly engaged in the business of providing credit, financing or loans, or regularly arranging or extending credit. The customer was also not registered with a FINRA member firm, and the loan to VanBeenen was not based upon a business or personal relationship that the customer maintained with VanBeenen outside of the broker-customer relationship. The findings also stated that VanBeenen, while employed with the firm and engaged in an outside business activity, knowingly made false statements to a financial institution for the purpose of obtaining a mortgage on certain real estate. VanBeenen pled guilty to false statements to a bank, which is a felony, in connection with this conduct in a U.S. district court. The findings also included that in an email and a letter, FINRA requested that VanBeenen provide on-the-record testimony and provide information regarding an investigation of his conduct while employed at the firm. VanBeenen failed to appear to provide testimony and failed to provide information that FINRA requested. (**FINRA Case #2010023348601**)

Robert Worthington Vincent (CRD #1153907, Registered Representative, Kansas City, Missouri) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $5,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Vincent's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Vincent consented to the described sanction and to the entry of findings that he willfully failed on several occasions to timely amend his Form U4 to disclose reportable events, not later than 30 days after he learned of the facts or circumstances giving rise to the required amendment. The findings stated that Vincent failed to disclose an outside business activity, suspension of his professional insurance license by a state Department of Insurance, compromises with creditors, and judgments and liens.

The suspension is in effect from July 2, 2012, through January 1, 2013. (**FINRA Case #2011026191201**)

Naum Voloshin (CRD #2592273, Registered Principal, Los Angeles, California) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Voloshin consented to the described sanction and to the entry of findings that he refused to appear and provide sworn testimony at a FINRA-requested on-the-record interview related to its investigation into whether Voloshin engaged in violative conduct in connection with his participation in outside business activities while he was associated with a member firm, and whether he failed to supervise a registered representative who conducted a securities business at the firm while his FINRA registration was inactive for failing to complete certain continuing education as part of the required Regulatory Element. The findings stated that Voloshin informed FINRA, orally and in writing via email, that he would neither appear nor provide sworn testimony at an on-the-record interview in connection with its investigations. (**FINRA Case #2011026263801**)

Darin Bradley Whittington (CRD #2569037, Registered Representative, Phoenix, Arizona) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $10,000 and suspended from association with any FINRA member in any capacity for 12 months. The fine must be paid either immediately upon Whittington's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Whittington consented to the described sanctions and to the entry of findings that, while registered with two FINRA member firms, Whittington participated in private securities transactions by referring customers from his firm-approved outside business to invest in a security (foreign currency exchange) an entity offered. The findings stated that the entity's foreign currency exchange later, and unbeknownst to Whittington, was determined to be a Ponzi scheme. The findings also stated that Whittington received a finder's fee as compensation for some of the transactions. The findings also included that the entity's transactions took place outside Whittington's regular course of employment at his member firms. Whittington failed to provide the firms with notice of his involvement in these transactions, nor did he receive prior written approval for the transactions.

The suspension is in effect from June 18, 2012, through June 17, 2013. (**FINRA Case #2010022142701**)

Harry Derrick Winters Jr. (CRD #1844323, Registered Representative, Lewisville, Texas) submitted an Offer of Settlement in which he was fined $15,000, suspended from association with any FINRA member in any capacity for four months, and ordered to pay $37,060.49, plus interest, in restitution to customers. The fine and restitution amounts must be paid either immediately upon Winters' reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the allegations, Winters consented to the described sanctions and to the entry of findings that he sold a security in the form of an installment plan contract to a customer without providing written notice to, and receiving approval from, his member firm. Winters received

approximately $20,130.99 in commissions in connection with his sale of the installment plan contract to one customer. In total, Winters sold to three customers installment plan contracts with a combined accumulated value of approximately $322,500. The findings stated that Winters sold the installment plan contracts without first conducting an adequate due diligence inquiry concerning the product and the risks and benefits associated with it. Winters also negligently misrepresented to his customers that they were entitled to a tax deduction in connection with their investments, which was not true. The findings also stated that Winters presented sales material to the customers that contained misleading and oversimplified descriptions of the product and lacked any disclosure of market risk. FINRA also included that Winters did not seek a registered principal's approval of the sales materials prior to showing them to his customers.

The suspension is in effect from July 2, 2012, through November 1, 2012. (**FINRA Case #2009019042401**)

Jerod Andrew Wurm (CRD #2861953, Registered Principal, El Dorado Hills, California) submitted an Offer of Settlement in which he was fined $5,000 and suspended from association with any FINRA member in any capacity for 10 business days. Without admitting or denying the allegations, Wurm consented to the described sanctions and to the entry of findings that he did not have a reasonable basis for recommending that his member firm's customer, a widow, invest $300,000 in a variable annuity to be paid for with the proceeds of the loan she obtained from an entity, an affiliate company of his firm. The findings stated that Wurm received a $1,225 referral fee from the company and a commission of $4,725 for the customer's annuity purchase. The findings also stated that Wurm was aware that the customer was not financially capable of purchasing the recommended variable annuity without encumbering her primary residence to obtain funds to invest. Wurm also knew, and discussed with the customer, that she would need to use her other investment assets, with a then-current market value of approximately $260,000, to help make the required home mortgage payments. The findings also included that Wurm knew that the customer had limited current income, wished to retire within seven years, and would have a limited income in retirement; and should have known that, should her limited retirement income and liquid assets be insufficient to make her mortgage payments, her home ownership could be at risk.

The suspension was in effect from July 2, 2012, through July 16, 2012. (**FINRA Case #2008015364901**)

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.

John Michael Babiarz (CRD #3047247, Registered Principal, Peabody, Massachusetts) was named a respondent in a FINRA complaint alleging that he settled, or attempted to settle, customer complaints totaling $19,300 without his member firm's knowledge or approval. In one instance, Babiarz defaulted on the promissory note payable to a customer. The complaint alleges that Babiarz caused orders for trades in numerous customers' accounts to be coded as unsolicited when, in fact, the trades were solicited, thereby causing his firm's books and records to contain false and erroneous information. The complaint also alleges that Babiarz exercised discretion in customers' accounts without their written authorization or his member firm's acceptance of the accounts as discretionary. (**FINRA Case #2009018486401**)

Joseph E. Barnas (CRD #4670017, Registered Principal, Staten Island, New York) was named a respondent in a FINRA complaint alleging that he sent emails to prospective customers regarding a 20+ year treasury ETF, which identified the purported price at which the ETF was currently trading and a price target for the ETF. The complaint alleges, according to the ETF's prospectus, the fund did not seek to achieve its stated investment results over a period of time greater than one day. Some of Barnas' emails included time horizons for the price targets, contained impermissible projections and did not contain a basis for Barnas' projection. The complaint also alleges that Barnas sent emails to prospective customers with an attached document, which constituted sales literature, and were not approved by a registered principal of his member firm prior to use. The complaint further alleges that language contained in the body of the emails contained incomplete and oversimplified references that failed to provide a sound basis for evaluating the facts, failed to provide a balanced treatment of risks and potential benefits, failed to reflect the risk of fluctuating prices and uncertainty of return, and contained exaggerated or unwarranted claims. The attachment to the emails stated that the clearing firm provided unlimited protection through a private insurer. The statement footnoted that coverage did not protect against market fluctuations in the value of the underlying securities. The statement and footnote failed to disclose what the unlimited protection in fact covers. (**FINRA Case #2010022764601**)

Tommy Roy Hester Jr. (CRD #5611899, Registered Representative, Bowie, Texas) was named a respondent in a FINRA complaint alleging that he accepted a total of $250.39 from customers for insurance policies, gave the customers receipts once he entered the

insurance requests into the insurance company's automated premium receipt system but failed to deposit their cash into the insurance company's bank account for payment of the policies. Instead, Hester deposited the cash payments into his personal business bank account and then made withdrawals for personal expenses, so his bank account ended with a negative $397.73 balance. The complaint alleges that Hester received $328 in cash from a customer for two automobile insurance policies, gave the customer receipts once he entered the insurance request into the automated system but used the cash for personal expenses. Hester's misappropriation was discovered during an audit, which found that two checks he remitted as payment for the four premium payments had been returned for insufficient funds. The complaint also alleges that Hester remitted the premiums a second time and admitted in a written statement to using customer funds to keep his business running by paying his expenses. The complaint further alleges that the insurance company continued the customers' policies without interruption and informed Hester's member firm, which filed a Uniform Termination Notice for Securities Industry Registration (Form U5) reporting the misconduct. In addition, the complaint alleges that Hester failed to comply with FINRA requests to appear and testify. (**FINRA Case #2011025944001**)

Charles Duane Lewis (CRD #3236086, Registered Representative, La Mesa, California) was named a respondent in a FINRA complaint alleging that Lewis obtained a power of attorney from a firm customer and, without the customer's knowledge or consent, wrote checks from the customer's bank account to himself or his company in the total approximate amount of $467,177, and some checks to a personal friend of his, in the approximate amount of $83,318.74, for a combined total of $550,495.74. Lewis, without authority, used the customer's funds for his own uses and purposes. The complaint alleges that in connection with the misconduct, Lewis was charged in a California County Superior Court with 58 felony counts, including one count of theft from an elder over $950, one count of fraudulent appropriation by clerk, agent or employee, one count of use of personal identifying information of another, and 55 counts of forgery of checks, money order, traveler's check, etc. Lewis pleaded guilty and was convicted of theft from an elder and fraudulent appropriation of funds, for which judgment was entered. In consideration of Lewis' plea, the court dismissed the remaining felony counts. The complaint also alleges that Lewis failed to respond to FINRA requests for documents and information. (**FINRA Case #2010023492301**)

Charles Chul Nam (CRD #2565046, Registered Principal, Tarzana, California) was named a respondent in a FINRA complaint alleging that during his solicitation, offer and sale of REIT securities, he made material misrepresentations falsely representing that he was an agent for, and accepting investments on behalf of, a public company. Customers provided a total of $792,750 to invest in the REIT. The complaint alleges that Nam used the funds for his own uses and purposes. The complaint also alleges that Nam provided false account statements to the customers reflecting fictitious positions held in the REIT. The complaint further alleges that one customer, after five months of effort, successfully obtained $440,000 of her $540,000 investment. The customer has not recovered the remainder

of her funds totaling $100,000, and the other customers have not recovered any of their funds. In addition, the complaint alleges that Nam unlawfully misappropriated funds from investors through the use of false representations of material fact. Moreover, the complaint alleges that Nam failed to respond to FINRA requests for information and to appear for testimony. (**FINRA Case #2011026514001**)

Daryl Winfield Riley (CRD #1190212, Registered Principal, La Habra, California) was named as a respondent in a FINRA complaint alleging that he exercised discretion in customer accounts over a two-year period without the customers' written authorization, and his member firm had not accepted the accounts as discretionary. (**FINRA Case #2009018214701**)

Randy Jason Schneider (CRD #2499925, Registered Representative, West Orange, New Jersey) was named a respondent in a FINRA complaint alleging that he received checks totaling approximately $39,000 from an elderly customer to be deposited into a brokerage account at Schneider's member firm to be used to purchase bonds at a later date. The complaint alleges that instead of depositing the checks into the brokerage account, Schneider misappropriated the checks, cashed them or deposited them into his own bank account and converted the funds to his own use. Schneider did not disclose to the customer that he misappropriated the checks and instead of purchasing bonds, converted the funds to his own use without the customer's authorization. The complaint further alleges that Schneider deposited bearer bonds the customer owned into his own brokerage account, sold the bonds and converted the proceeds, a total of at least $223,000, to his personal use. As part of the conversion, he wired at least $200,000 to his personal bank account, without disclosing his actions to the customer and without the customer's authorization. In addition, the complaint alleges that another elderly customer delivered bearer bonds with an approximate market value of $20,000 to Schneider to deposit into his brokerage account. Schneider provided the customer with a receipt evidencing his acceptance of the bonds, but instead of maintaining the bonds, he sold them and converted the proceeds to his personal use, without disclosing his misappropriation and conversion to the customer and without the customer's authorization. Moreover, the complaint alleges that Schneider failed to respond to FINRA requests to appear for on-the-record testimony and to produce documents and information. (**FINRA Case #2011029676001**)

Take Charge Financial, Inc. dba Take Charge Financial (CRD #16724, Los Gatos, California) and Joan Anne Perry (CRD #502847, Registered Principal, San Jose, California) were named respondents in a FINRA complaint alleging that the firm and Perry stole approximately $90,781.06 from their customers by taking the customers' funds directly out of their securities accounts without authorization and transferring the funds to accounts they owned or controlled. The complaint alleges that the firm and Perry hid the thefts by designating the fund movements as fees of various types. The complaint also alleges that the firm and Perry provided a new version of the firm's Advisory Services Agreements (ASAs) to their customers and requested that the customers sign it. The firm and Perry

omitted and/or misrepresented material facts to customers in that these new versions contained added language ostensibly authorizing a year-end report fee not authorized in the original ASA. The firm and Perry falsely claimed that they required a signature on the new form because the previous form was missing. Perry caused the falsification of the document by either altering the date(s) appearing by the customer signature line(s) or by requesting that the customer backdate the document. The firm and Perry provided falsified documents to FINRA in response to requests made. Perry provided false testimony to FINRA regarding report fee that she claimed her customers had agreed to be charged, when in fact they had not. In addition, the complaint alleges that Perry borrowed $300,000 from a customer under circumstances prohibited by FINRA rules, and further that she caused the loan amount to be wired out of the customer's account without the customer's authorization. Moreover, the complaint alleges that the firm and Perry failed to report, or failed to timely report, various customer complaints to FINRA. Furthermore, the complaint alleges that Perry was the sole person at the firm responsible for ensuring that its books and records were kept in accordance with all applicable rules and regulations, and the firm, acting through Perry, preserved communications pertaining to its business using electronic storage media other than optical disk technology. The firm and Perry did not notify FINRA of their intent to employ electronic storage media to preserve such communications until a later date, and never provided FINRA with a representation that their selected storage media meets the conditions set forth in Exchange Act Rule 17a-4(f)(2). The electronic storage media did not preserve the communications exclusively in a non-rewritable, non-erasable format. The complaint also alleges that Perry was the only Financial and Operations Principal at the firm and was solely responsible for its compliance with Exchange Act Rule 15c3-1. The firm and Perry conducted securities business on multiple dates while failing to maintain minimum required net capital, and failed to timely file notice of the net capital deficiency, as required. The complaint further alleges that the firm and Perry failed to conduct records searches in response to requests for information from the Financial Crimes Enforcement Network (FinCEN), and then made misrepresentations to FINRA in connection with their failure to conduct such searches. In addition, the complaint alleges that Perry willfully failed to timely update her Form U4 to disclose an unsatisfied civil judgment against her, and filed a materially incomplete and misleading Form U4 amendment in connection with the investigation that resulted in the complaint. Moreover, the complaint alleges that the firm and Perry failed to respond to FINRA requests for information and documents. (**FINRA Case #2011028950901**)

Benjamin Franklin West (CRD #5445026, Registered Representative, Knoxville, Tennessee) was named a respondent in a FINRA complaint alleging that he received $5,466.58 from a customer payable to an insurance affiliate of his member firm for renewal of commercial property insurance policies, but failed to enter the payment into the agent's credit advice (ACA) program and deposit the premium payments into the affiliate's bank account to which he had deposit access only. Instead, he misappropriated the funds by depositing the check into his own account and using the funds to pay personal expenses. The complaint alleges that after the customer contacted the affiliate and filed a complaint with a state Department of Commerce and Insurance, West deposited $6,300 from his personal funds to the affiliate's bank account to pay the premiums for the renewal policies. The customer did not experience any lapse in any insurance coverage. The complaint also alleges that another customer wrote a $809.50 check for an insurance policy, which West did not enter into the ACA system and did not deposit the premium into the affiliate's bank account. Instead, West deposited the check into his own account to pay personal expenses, thereby misappropriating the funds for his personal expenses. The complaint further alleges that after the customer filed a complaint with the affiliate, West deposited $995 into the affiliate's bank account toward a new insurance policy for the customer. The customer did not experience any lapse of insurance coverage. In addition, the complaint alleges that West failed to respond to FINRA requests for information and documents and to appear for testimony. (**FINRA Case #2011026032101**)

Complaints Dismissed

(FINRA issued the following complaints, each of 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 complaints be dismissed.)

Direct Capital Securities, Inc. (CRD #29639)
Austin, Texas
FINRA Case #2008016023701

Markel Dashiell Petty aka Markel Steven Lewis (CRD #5217356)
Santa Monica, California
FINRA Case #2008016023701

Clay Harriss Womack (CRD #4095147)
Austin, Texas
FINRA Case #2008016023701

Monarch Financial Corporation of America (CRD #23437)
New York, New York
FINRA Case #2009016339101

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

A B Wong Capital LLC (CRD #124360)
New York, New York
(June 20, 2012)

Blue Moon Financial, LLC (CRD #123224)
Denver, Colorado
(June 15, 2012)

Franklin Capital Inc (CRD #18846)
West Palm Beach, Florida
(June 20, 2012)

Global Trading Group, Inc. (CRD #103927)
Bronx, New York
(June 20, 2012)

Peyton, Chandler & Sullivan, Inc. (CRD #113517)
Rocklin, California
(June 20, 2012)

Walton Johnson & Company (CRD #26448)
Dallas, Texas
(June 18, 2012)

WJB Capital Group, Inc. (CRD #37334)
New York, New York
(June 18, 2012)

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

Davis, Mendel & Regenstein, Inc. (CRD #8521)
Atlanta, Georgia
(June 5, 2012)

Jeffrey Leroy Nelson dba Nelson Capital Company (CRD #14664)
Jamestown, New York
(June 5, 2012)

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

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

Doley Securities, LLC. (CRD #7081)
New Orleans, Louisiana
(June 1, 2012)

Franklin Capital Inc (CRD #18846)
West Palm Beach, Florida
(June 1, 2012)

Pacific American Securities, LLC (CRD #42999)
San Diego, California
(June 1, 2012)

Peyton, Chandler & Sullivan, Inc. (CRD #113517)
Rocklin, California
(June 1, 2012)

Walton Johnson & Company (CRD #26448)
Dallas, Texas
(June 1, 2012)

WJB Capital Group, Inc. (CRD #37334)
New York, New York
(June 1, 2012)

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

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

Legend Securities, Inc. (CRD #44952)
New York, New York
(June 11, 2012 – June 18, 2012)
FINRA Arbitration Case #11-03675

Firm Suspended for Failing to Pay Arbitration Awards 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.)

Pacific America Securities, LLC (CRD#42999)
San Diego, California
(June 13, 2012)
FINRA Arbitration Case #11-01054

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.)

Sean Patrick Bess (CRD #2487423)
Springfield Gardens, New York
(June 5, 2012)
FINRA Case #2011029400301

James Alfred Bruffett (CRD #4630930)
Cottonwood, California
(June 1, 2012)
FINRA Case #2011030145601

Chad Michael Hodge (CRD #4768893)
Columbus, Ohio
(June 5, 2012)
FINRA Case #2011029228201

Maximo Pascual (CRD #5519274)
Woodhaven, New York
(June 11, 2012)
FINRA Case #2011028323101

Brian Ivan Rios (CRD #5494046)
Aurora, Illinois
(June 8, 2012)
FINRA Case #2011030242201

Jonathan James Scullin (CRD #4498724)
North Smithfield, Rhode Island
(June 1, 2012)
FINRA Case #2011030331401

Staci Dawn Sneddon (CRD #5960753)
Pocatello, Idaho
(June 18, 2012)
FINRA Case #2011029910501

Adrian Julio Somarriba Alvarez aka Adrian Julio Somarriba (CRD #5549314)
Miami, Florida
(June 12, 2012)
FINRA Case #2011029386001

Alexander Verdaguer (CRD #5450748)
Cliffside Park, New Jersey
(June 4, 2012)
FINRA Case #2011029453401

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.)

Jon Joseph Bauman (CRD #5007841)
Phoenix, Arizona
(June 22, 2012)
FINRA Case #2012031088101

Eric Todd Burns (CRD #2318367)
Valley Center, Kansas
(June 4, 2012)
FINRA Case #2011029691401

Steven Paul Caruso (CRD #2163934)
Morganville, New Jersey
(June 22, 2012)
FINRA Case #2012031249501

Johnson Wingkeung Choi (CRD #1000182)
Honolulu, Hawaii
(June 22, 2012)
FINRA Case #2012031069301

Abdus Salam Chowdhury (CRD #5830577)
Miami, Florida
(June 15, 2012)
FINRA Case #2011028282001

Sean Michael Clark (CRD #5317621)
Saint Marys, Pennsylvania
(June 7, 2012)
FINRA Case #2011029209601

Jamie Lydell Dick (CRD #3004669)
Las Vegas, Nevada
(June 11, 2012)
FINRA Case #2011026393301

Frank Arthur Dittrick (CRD #3104276)
North Palm Beach, Florida
(June 22, 2012)
FINRA Case #2010024473201

Jon Emerenciano (CRD #5803732)
New York, New York
(June 7, 2012)
FINRA Case #2011026744001

Raul Ruben Franco (CRD #1805035)
Lakeland, Florida
(June 15, 2012)
FINRA Case #2011029361801

John Michael Gatlin (CRD #4719327)
Bakersfield, California
(June 4, 2012)
FINRA Case #2011029722901

Michael John Giordano (CRD #4420099)
Chicago, Illinois
(June 7, 2012)
FINRA Case #2011029461901

Beth Anne Gutwin (CRD #3024181)
Williston, Vermont
(June 22, 2012)
FINRA Case #2012031279501

Daniel Alan Holda (CRD #5295707)
Geneva, Illinois
(June 22, 2012)
FINRA Case #2011030501901

Scott James Huber (CRD #5865899)
Wilton Manors, Florida
(June 15, 2012)
FINRA Case #2012031180001

Bethel Loree Hutchinson (CRD #4530660)
Arvada, Colorado
(June 22, 2012)
FINRA Case #2012031656001

Osi Trevor Isaacs aka Peter Isaacs (CRD #2724629)
Brooklyn, New York
(June 4, 2012 – June 4, 2012)
FINRA Case #2011030031501

Michael Tullus Martin (CRD #2300051)
Newburgh, Indiana
(June 18, 2012)
FINRA Case #2011026118001

Scott David Mason aka Burry Mason (CRD #3270983)
Debary, Florida
(June 11, 2012)
FINRA Case #2011029343201

James Steele McClellan Jr. (CRD #325492)
Sturgeon Bay, Wisconsin
(June 4, 2012)
FINRA Case #2010025691101

Latosha Evette McCune (CRD #5738910)
Jackson, Mississippi
(June 15, 2012)
FINRA Case #2011030242701

Michael Atef Menias (CRD #5976551)
Mokena, Illinois
(June 7, 2012)
FINRA Case #2011030704101

Assad Mian aka Assad Man (CRD #5023360)
Hoboken, New Jersey
(June 7, 2012)
FINRA Case #2012031013601

Juan M. Morales (CRD #5473993)
Houston, Texas
(June 15, 2012)
FINRA Case #2012031367301

Andrew William Myers (CRD #5358124)
Fishers, Indiana
(June 22, 2012)
FINRA Case #2011027594701

Joseph Anthony Nemec (CRD #4595986)
Wexford, Pennsylvania
(June 22, 2012)
FINRA Case #2011030795501

Christopher Joseph Palladino (CRD #1888670)
Davidson, North Carolina
(June 11, 2012 – June 11, 2012)
FINRA Case #2011025746301

Zhi C. Poon (CRD #5614626)
College Point, New York
(June 7, 2012)
FINRA Case #2011030683201

Albert Henry Postle III (CRD #1539230)
Grafton, Massachusetts
(June 18, 2012)
FINRA Case #2011027804001

Art Clarion Quimen (CRD #4221761)
San Diego, California
(June 7, 2012)
FINRA Case #2011028170801

Jeffrey Rachlin (CRD #823547)
Pleasantville, New York
(June 22, 2012)
FINRA Case #2011030254501

Alexander Riosdoria (CRD #5322214)
Staten Island, New York
(June 18, 2012)
FINRA Case #2010024283601

Kimberly Hope Barker Rodgers (CRD #4807493)
Midlothian, Virginia
(June 22, 2012)
FINRA Case #2011030684101

Scott M. Schmidtlein (CRD #5839054)
Topeka, Kansas
(June 22, 2012)
FINRA Case #2012031074901

Qingfeng Shen aka Alice Pan Shen (CRD #3082838)
Portland, Oregon
(June 7, 2012)
FINRA Case #2011030425501

James Smith (CRD #1695014)
Phoenix, Arizona
(June 4, 2012)
FINRA Case #2011030081001

Patrick Bryan Smith (CRD #5788672)
Houston, Texas
(June 7, 2012)
FINRA Case #2011030199701

Dennis J. Steigerwalt II (CRD #4775172)
Pittsburgh, Pennsylvania
(June 18, 2012)
FINRA Case #2011026467501

Alice Marie Williams (CRD #5835961)
Long Beach, California
(June 7, 2012)
FINRA Case #2011028768701

Charles Ellis Williams (CRD #2091030)
St. Petersburg, Florida
(June 22, 2012)
FINRA Case #2012031743001

Stephen Julian Williams (CRD #3053845)
Tifton, Georgia
(June 18, 2012)
FINRA Case #2011030673501

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

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

Gerard Chandler Gremillion (CRD #1816351)
Baton Rouge, Louisiana
(June 7, 2012 – June 28, 2012)
FINRA Arbitration Case #11-00895

Chane William Hazelett (CRD #2651371)
Atlanta, Georgia
(June 7, 2012 – June 21, 2012)
FINRA Arbitration Case #11-04189

Christopher Michael Murtha (CRD #2880315)
West Sayville, New York
(June 7, 2012 – June 28, 2012)
FINRA Arbitration Case #09-06509

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 George Adelsberger III (CRD #4407619)
Baltimore, Maryland
(June 7, 2012)
FINRA Arbitration Case #11-03910

Thomas John Battista (CRD #2541832)
Waltham, Massachusetts
(June 7, 2012)
FINRA Arbitration Case #10-01890

John Raphael Boelke Jr. (CRD #2730080)
Sunny Isles Beach, Florida
(June 7, 2012 – July 9, 2012)
FINRA Arbitration Case #11-01172

John Raphael Boelke Jr. (CRD #2730080)
Sunny Isles Beach, Florida
(June 6, 2012 – July 9, 2012)
FINRA Arbitration Case #11-02344

Christopher Matthew Cunningham (CRD #2390800)
Alexandria, Virginia
(June 7, 2012)
FINRA Arbitration Case #10-01398

Aleksandr Yurievich Denisov (CRD #4586928)
Marina Del Rey, California
(June 7, 2012)
FINRA Arbitration Case #11-00165

Eric Martin Dishner (CRD #2330409)
New Port Richey, Florida
(June 7, 2012)
FINRA Arbitration Case #10-04290

Frederick Donald Facka (CRD #2954599)
Richmond, Virginia
(June 21, 2012)
FINRA Arbitration Case #10-05048

Keith H. Freeman (CRD #4350220)
Hot Springs, Arkansas
(June 13, 2012)
FINRA Arbitration Case #11-03902

Alan H. Gross (CRD #5371210)
Parkland, Florida
(June 7, 2012)
FINRA Arbitration Case #11-03909

Jeffrey Joseph Jankowski (CRD #1580909)
Denver, Colorado
(February 2, 2012 – June 22, 2012)
FINRA Arbitration Case #10-04464

Wesley Glyn Long (CRD #2833960)
Fort Worth, Texas
(June 7, 2012)
FINRA Arbitration Case #09-02732

Sean Michael Morrissey (CRD #5248799)
Los Gatos, California
(June 7, 2012)
FINRA Arbitration Case #11-01170

Richard John Nelson (CRD #2718193)
Brooklyn, New York
(June 7, 2012)
FINRA Arbitration Case #11-03600

Ralph Roberts Schneider (CRD #1837062)
Okoboji, Iowa
(June 7, 2012)
FINRA Arbitration Case #10-01715

Mark Patrick Sullivan (CRD #4629827)
Boca Raton, Florida
(June 7, 2012)
FINRA Arbitration Case #10-04533

Robert Eugene Taddeo (CRD #2472327)
Southington, Connecticut
(June 7, 2012)
FINRA Arbitration Case #11-03069

FINRA Hearing Panel Fines Brookstone Securities $1 Million for Fraudulent Sales of CMOs to Elderly

Full Restitution of Over $1.6 Million Ordered to Customers; Firm's CEO and Broker Barred; Former Compliance Officer Barred as Principal

The Financial Industry Regulatory Authority® (FINRA) announced that a FINRA hearing panel ruled that Brookstone Securities of Lakeland, FL, and the firm's Owner/CEO Antony Turbeville and one of the firm's brokers, Christopher Kline, made fraudulent sales of collateralized mortgage obligations (CMOs) to unsophisticated, elderly and retired investors. The panel fined Brookstone $1 million and ordered it to pay restitution of more than $1.6 million to customers, with $440,600 of that amount imposed jointly and severally with Turbeville, and the remaining $1,179,500 imposed jointly and severally with Kline.

The panel also barred Turbeville and Kline from the securities industry, and barred Brookstone's former Chief Compliance Officer David Locy from acting in any supervisory or principal capacity, suspended him in all capacities for two years and fined him $25,000. The ruling resolves charges brought by FINRA in December 2009.

The panel found that from July 2005 through July 2007, Turbeville and Kline intentionally made fraudulent misrepresentations and omissions to elderly and unsophisticated customers regarding the risks associated with investing in CMOs. All of the affected customers were retired investors looking for safer alternatives to equity investments. According to the decision, Turbeville and Kline "preyed on their elderly customers' greatest fears," such as losing their assets to nursing homes and becoming destitute during their retirement and old age, in order to induce them to purchase unsuitable CMOs. By 2005, interest rates were increasing, and the negative effect on CMOs was evident to Turbeville and Kline, yet they did not explain the changing conditions to their customers. Instead, they led customers to believe that the CMOs were "government-guaranteed bonds" that preserved capital and generated 10 percent to 15 percent returns. During the two-year period, Brookstone made $492,500 in commissions on CMO bond transactions from seven customers named in the December 2009 complaint, while those same customers lost $1,620,100.

Two of Kline's customers were elderly widows with very limited investment knowledge, who, vulnerable after their husbands' deaths, were convinced to invest their retirement savings in risky CMOs. Kline told the widows that they could not lose money in CMOs because they were government-guaranteed bonds, and Kline further increased their risk by trading on margin.

Also, the panel noted that Locy completely ignored his responsibility as chief compliance officer and "should have been a line of defense against Turbeville's and Kline's egregious conduct," but instead "he looked the other way while Turbeville and Kline traded CMO accounts that were unsuitable for their customers."

The hearing panel concluded that Brookstone was responsible for Turbeville's and Kline's action. According to the decision, "the firm neither acknowledged nor accepted responsibility for the misconduct at issue in this matter. Instead, through Turbeville and Kline, it attempted to blame the customers for their own losses."

Unless the hearing panel's decision is appealed to FINRA's National Adjudicatory Council (NAC) or is called for review by the NAC, the hearing panel's decision becomes final after 45 days.

The decision has been appealed to the NAC and the sanctions are not in effect pending the appeal.

FINRA Fines Merrill Lynch $2.8 Million for Overcharging Customers; $32 Million in Remediation Paid to Affected Customers

The Financial Industry Regulatory Authority (FINRA) announced that it has fined Merrill Lynch, Pierce, Fenner & Smith, Inc. $2.8 million for supervisory failures that resulted in overcharging customers $32 million in unwarranted fees, and for failing to provide certain required trade notices. Merrill Lynch has provided $32 million in remediation, plus interest, to the affected customers.

Brad Bennett, FINRA's Executive Vice President and Chief of Enforcement, said, "Investors must be able to trust that the fees charged by their securities firm are, in fact, correct. When this is not the case, investor confidence is threatened."

FINRA found that from April 2003 to December 2011, Merrill Lynch failed to have an adequate supervisory system to ensure that customers in certain inves ent advisory programs were billed in accordance with contract and disclosure documents. As a result, the firm overcharged nearly 95,000 customer accounts fees of more than $32 million. Merrill Lynch has since returned the unwarranted fees, with interest, to the affected customers.

Merrill Lynch also failed to provide timely trade confirmations to customers in certain advisory programs due to computer programming errors. As a result, from July 2006 to November 2010, Merrill Lynch failed to send customers trade confirmations for more than 10.6 million trades in over 230,000 customer accounts. In addition, Merrill Lynch failed to properly identify whether it acted as an agent or principal on trade confirmations and account statements relating to at least 7.5 million mutual fund purchase transactions. At various times, Merrill Lynch also failed to deliver certain proxy and voting materials, margin risk disclosure statements and business continuity plans.

In concluding this settlement, Merrill Lynch neither admitted nor denied the charges, but consented to the entry of FINRA's findings.