

Disciplinary and Other FINRA Actions

Firms Fined, Individuals Sanctioned

GlobaLink Securities, Inc. (CRD® #29721, Pasadena, California) and Junhua Michael Liao (CRD #4278425, Registered Principal, San Gabriel, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm was fined \$20,000, jointly and severally with Liao. Liao was also suspended from association with any FINRA member in any principal capacity for one month. Without admitting or denying the findings, the firm and Liao consented to the described sanctions and to the entry of findings that the firm, acting through Liao, executed an agreement to market and sell a Regulation D offering of promissory notes for a medical receivables financing company. The findings stated that thereafter, the firm sold \$1,260,049 of the notes to some customers, and these sales generated approximately \$56,700 in commissions for the firm. The findings also stated that as the firm's chief compliance officer (CCO) and president throughout the relevant period, Liao was responsible for ensuring that the firm established, maintained, and enforced a supervisory system and written supervisory procedures (WSPs) reasonably designed to achieve compliance with applicable laws rules, and regulations. The findings also included that the firm maintained WSPs pertaining to the sales of private placements, but the WSPs were inadequate in that they lacked specifics concerning how the firm would conduct due diligence, process private placement transactions, ensure that a Regulation D product was suitable for investors, and document the firm's decisions and actions regarding private placement transactions. FINRA found that as a result of the firm's deficient supervisory system and WSPs, the firm, acting through Liao, failed to conduct adequate due diligence on the offering. Such failure prevented the firm and Liao from learning that the issuer had experienced payment problems on earlier note offerings and thus, the private placement memorandum (PPM) misrepresented the issuer's past performance.

The suspension was in effect from June 3, 2013, through July 2, 2013. ([FINRA Case #2009018818901](#))

Reported for July 2013

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).

VSR Financial Services, Inc. (CRD #14503, Overland Park, Kansas) and Donald Joseph Beary (CRD #15818, Registered Principal, Lenexa, Kansas) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$550,000. Beary was fined \$10,000 and suspended from association with any FINRA member in any principal capacity for 45 days. Without admitting or denying the findings, the firm and Beary consented to the described sanctions and to the entry of findings that the firm failed to establish, maintain and enforce a reasonable supervisory system regarding the sale of non-conventional investments. The findings stated that the firm's WSPs provided that no more than 40 percent to 50 percent of a client's exclusive net worth could be invested cumulatively in alternative investments unless there was a substantial reason to exceed the guidelines and that justification was well documented. Supplemental to these procedures, the firm, through Beary, created additional procedures that applied a discount to certain non-conventional instruments, reducing the percentage of a customer's liquid net worth invested. The findings also stated that as the direct participation principal, Beary had responsibility for the implementation and supervision of the discount program. The Securities and Exchange Commission (SEC) identified as a deficiency, in a letter to the firm, that it did not have adequate written procedures relating to the discount program. The SEC made the same finding two years later regarding the lack of WSPs relating to the discount program. Despite these warnings from the SEC, Beary did not take reasonable steps to implement WSPs or to otherwise discontinue the use of the discount program.

The findings also included that in addition to the 40 percent to 50 percent concentration limit stated in the firm's WSPs, the firm's new account form asked each client to specify the percentage of liquid net worth that the client would be comfortable investing in various risk categories. Most alternative investment program sponsors identified their products involving, at a minimum, a high degree of risk. The firm also assigned a risk category to each alternative investment it sold. Rather than assign a risk category based upon the risk level identified by the sponsor in the alternative investment offering documents, the firm routinely assigned lower risk categories. In several instances, the firm lowered its internal risk rating subsequent to the firm's acceptance of the product. In spite of the firm's efforts to increase sales of alternative investments through the use of discounts and risk rating reductions, customer investments still exceeded the 40 percent concentration guideline, but the firm did not document the existence of a substantial reason to exceed the concentration guidelines as required by its WSPs.

FINRA found that the firm failed to establish, maintain and enforce a reasonable supervisory system regarding the use of consolidated reports. The firm's WSPs regarding consolidated statements were limited to a few memoranda issued to registered representatives prior to the issuance of FINRA Regulatory Notice 10-19. In practice, for six years, the firm's registered representatives used a number of consolidated reporting systems. The firm did not require pre-approval of the consolidated reports to determine whether accurate pricing and disclosures were being used. The firm did not have a system for prompt review of the consolidated reports after the reports were sent to

customers. Given the fact that the firm allowed its registered representatives to enter valuations manually, the firm's lack of supervision of the consolidated reports was unreasonable. FINRA also found that the firm, acting through a registered representative, recommended and effected the sale of high-risk private placements to customers. While these products may have been suitable for certain customers, they were not suitable for these customers given their financial circumstances and condition. The firm earned approximately \$35,950 in commissions on the transactions. The firm, through another registered representative, made recommendations to customers that were not suitable given their moderate risk tolerance and specifications, and the firm earned commissions on the transactions of approximately \$483,077.38. In addition, FINRA determined that the firm failed to reasonably supervise its representatives with respect to the unsuitable transactions. One of several firm principals reviewed and approved the transactions of one of these representatives, and each of the principals failed to detect or investigate "red flags" regarding the transactions. This representative falsified the account documentation for customers, but the firm did not detect or investigate any of the representatives' falsification of documents or other red flags. Detection and investigation of any of these red flags might have prevented the representative's unsuitable recommendations and the resulting loss of the customers' funds. Moreover, FINRA found that the firm allowed its registered representatives to send consolidated statements to their customers but never reviewed the consolidated statements a representative sent to some customers to determine whether he was following the firm's procedures regarding pricing. Because of the inaccurate pricing the representative used, and the firm's lack of supervision, these customers received statements with erroneous pricing information.

The suspension is in effect from June 3, 2013, through July 17, 2013. ([FINRA Case #2010022963602](#))

Firms Fined

American Portfolios Financial Services, Inc. (CRD #18487, Holbrook, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$25,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it had inadequate written procedures regarding the delivery of exchange-traded funds (ETFs) and/or unit investment trust (UIT) prospectuses. The findings stated that the firm signed an agreement with another FINRA member firm for delivery of ETF and UIT prospectuses. Although American Portfolios retained the other firm to deliver its ETF and UIT prospectuses, it remained American Portfolios' responsibility to review transaction activity on a regular basis and verify that a prospectus was properly delivered when required. To assist American Portfolios in fulfilling its delivery obligations, the other firm made available online daily and monthly exception reports. These exception reports listed all prospectuses that were not delivered on a trade date, and the reason each prospectus was not delivered. American Portfolios failed to

adequately review the exception reports, and failed to otherwise review or monitor the functions it delegated to the other firm. As a result, American Portfolios failed to detect that the other firm had failed to timely deliver prospectuses, thereby failing to timely deliver the required prospectuses or written descriptions in connection with these ETF and UIT purchases. ([FINRA Case #2012033328301](#))

APB Financial Group, LLC (CRD #38235, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$30,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to establish and maintain a supervisory system and establish, maintain and enforce adequate WSPs reasonably designed to achieve compliance with applicable securities laws and regulations concerning the supervision of approved participation in private securities transactions, the review and inspection of non-branch locations, and the retention of emails concerning firm business sent from or received by personal email accounts. The findings stated that the firm failed to enforce its WSPs addressing the review of outside brokerage account statements for the approved outside accounts of associated persons. The firm failed to establish, maintain and enforce adequate written supervisory control procedures reasonably and adequately designed to review and supervise the customer account activity conducted by each of the firm's producing managers. The findings also stated that the firm submitted to senior management annual reports for two years that failed to detail the firm's system of supervisory controls, the summary of the test results thereof, significant identified exceptions and any supervisory procedures created in response to the test results. For the two years, the firm prepared an annual certification from its chief executive officer (CEO) stating that it had supervisory control and review processes in place, but failed to adequately evidence such processes in a written report for review by the CEO and CCO. ([FINRA Case #2010021326901](#))

Automated Trading Desk Financial Services, LLC (CRD #103768, Mt. Pleasant, South Carolina) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$40,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it reported last sale reports of transactions in over-the-counter (OTC) equity securities to the OTC Reporting Facility (OTCRF) that it was not required to report and incorrectly designated as ".W" last sale reports of transactions in OTC equity securities to the OTCRF. The findings stated that the firm transmitted last sale reports of transactions in designated securities to the FINRA/NASDAQ Trade Reporting Facility® (FNTRF), and failed to include a "Y" to indicate that the transactions qualified for an exemption from SEC Regulation NMS Rule 611. The reports also failed to include the related "J" code indicating that the trades specifically qualified for the sub-penny trade exemption from Rule 611. ([FINRA Case #2011028302901](#))

Bishop, Rosen & Co., Inc. (CRD #1248, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$32,500, ordered to pay \$7,613.14, plus interest, in restitution to customers, and required to revise its WSPs concerning fair pricing of municipal securities. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it purchased municipal securities for its own account from a customer and/or sold municipal securities for its own account to a customer at an aggregate price (including any markdown or markup) that was not fair and reasonable, taking into consideration all relevant factors, including the best judgment of the broker, dealer or municipal securities dealer as to the fair market value of the securities at the time of the transaction and of any securities exchanged or traded in connection with the transaction; the expense involved in effecting the transaction; the fact that the broker, dealer or municipal securities dealer is entitled to a profit; and the total dollar amount of the transaction. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and Municipal Securities Rulemaking Board (MSRB) rules concerning fair pricing of municipal securities. ([FINRA Case #2011028510401](#))

Citadel Securities LLC (CRD #116797, Chicago, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$215,000, ordered to pay \$239,582.12, plus interest, in restitution to customers, and required to revise its WSPs regarding the handling of customer orders during market-disrupting events. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that on a certain date, the American Stock Exchange (AMEX) opened for equity trading approximately 70 minutes later than its regular opening due to system problems; its transmission lines were shut down and all orders transmitted to AMEX were rejected. The findings stated that at the time, the firm did not have any WSPs to address how it would handle customer orders in the event a primary market failed to open for trading, or was unavailable for trading. With the exception of a few securities that the firm decided to begin trading on a manual basis, it followed its regular practice and handled all customer orders on a fully automated basis. Regular orders received prior to the opening of the AMEX were routed, on a riskless principal basis, to the AMEX to participate in the exchange's opening process. The firm held the customer orders in-house on its book and sent identical representative orders to the AMEX floor for execution. Relying on this procedure, the firm continued to accept new customer orders and to send representative orders to the AMEX, after receiving notice that it was rejecting all orders. The findings also stated that the firm failed to establish, maintain and enforce a system of supervision and WSPs reasonably designed to address the handling of customer orders during market-disrupting events. The firm's supervisory system did not include WSPs concerning the prompt and fair handling of customer orders in instances where a primary market fails to open for trading, or the market is unavailable for trading. The findings also included that the firm failed to preserve for a period of not less than three years, the first two in

an accessible place, memoranda of the cancellation of numerous brokerage orders. FINRA also found that in transactions for or with a customer, the firm failed to use reasonable diligence to ascertain the best inter-dealer market, and failed to buy or sell in such market so that the resultant price to its customer was as favorable as possible under prevailing market conditions. ([FINRA Case #2007010875201](#))

Citadel Securities LLC (CRD #116797, Chicago, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$50,000 and required to revise its WSPs regarding SEC Rules 203(a) (long sales), 203(b)(1) (locate requirement) and 203(b)(3) (threshold closeout requirement). 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 in equity securities at a registered clearing agency that was attributable to market-making activities, and did not close out the fail-to-deliver positions by purchasing securities of like kind and quantity within the time frame prescribed. The findings stated that the firm accepted short sale orders involving equity securities from another person, or effected short sales for its own account, without first borrowing the security or entering into a *bona fide* arrangement to borrow the security, and had a fail-to-deliver position at a registered clearing agency in such security that had not been closed out in accordance with the requirements of paragraphs (a) and (b) of SEC Rule 204T. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning SEC Rules 203(a) (long sales), 203(b)(1) (locate requirement), and 203(b)(3) (threshold closeout requirement). ([FINRA Case #2009018256501](#))

Citigroup Global Markets Inc. (CRD #7059, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$800,000 and ordered to pay \$1,055.85, plus interest, in restitution to customers. The firm shall report unreported transactions through the electronic Form T process and pay the fees assessed for these previously unreported transactions. The firm shall provide reports, written and oral, on dates no more than six months, 12 months, and 18 months after the date of acceptance of this AWC regarding the implementation and effectiveness of the firm's equity trade reporting systems and supervision of equity trade reporting, and provide a summary, written and oral, and any subsequent updates of the results of a review of the new trade reporting system to be performed by the firm's quality assurance team.

Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report last-sale reports of transactions in designated securities to the FNTRF; and failed, within the required time period, to transmit last-sale reports of transactions in designated securities to the FNTRF and failed to designate some of them as late. The firm failed to report the correct execution time to the FNTRF in last-sale reports of designated securities transactions and incorrectly designated as ".PRP" to the FNTRF some last-sale reports of designated securities transactions. The firm failed to mark transactions reported to the FNTRF as riskless principal transactions. The

findings also stated that the firm incorrectly reported the second leg of riskless principal transactions to the NASD®/NASDAQ Trade Reporting Facility (NNTRF) or the FNTRF. The findings also stated that the firm failed to report last-sale reports of transactions in OTC equity securities to the OTCRF. The firm failed to report trade reports to the OTCRF by 6:30 p.m. Eastern Time (or the end of the reporting session that was in effect at that time) on the trade date. The firm failed to report the correct execution time for reportable securities transactions to the OTCRF. The findings also included that the firm failed to accept or decline trade reports in reportable securities in the FNTRF within 20 minutes after execution, and failed to accept or decline in the OTCRF trade reports in reportable securities within 20 minutes after execution.

FINRA found that the firm erroneously reported transactions in foreign equity securities that were executed and reported in foreign countries to the OTCRF. The firm failed, within 90 seconds after execution, to transmit last-sale reports of transactions in OTC equity securities to the OTCRF. The firm failed to designate to the OTCRF some last-sale reports as late, and failed to report the correct execution time to the OTCRF for some last-sale reports for transactions in OTC equity securities. FINRA also found that the firm failed, within 30 seconds after execution, to transmit to the OTCRF last-sale reports of transactions in OTC equity securities, failed to designate to the OTCRF some last-sale reports as late, and failed to report the correct execution time to the OTCRF for some last-sale reports for transactions in OTC equity securities. Moreover, FINRA found 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 equity trade reporting.

Furthermore, FINRA found that the firm transmitted Execution or Combined Order/Execution Reports to the Order Audit Trail System (OATS™) that contained inaccurate, incomplete, or improperly formatted data, so OATS was unable to link the execution reports to the related trade reports in a FINRA trade reporting system. The firm transmitted reports to OATS that failed to include a desk receipt time and failed to show the order receipt time on brokerage order memoranda. The findings also stated that the firm effected transactions in securities while a trading halt was in effect for each of the securities and effected transactions in one security after the securities registration was revoked pursuant to Section 12(j) of the Exchange Act. The findings also included that the firm failed to fully and promptly execute customer market orders, and for some of the orders, failed to use reasonable diligence to ascertain the best inter-dealer market for the subject securities so that the resultant prices to its customers would be as favorable as possible under prevailing market conditions. ([FINRA Case #2007010451301](#))

D.E. Shaw Securities, L.L.C. (CRD #24332, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it submitted inaccurate order cancellation information to OATS. ([FINRA Case #2010021247601](#))

Essex Radez LLC (CRD #34649, Chicago, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to transmit all of its Reportable Order Events (ROEs) it was required to transmit to OATS on numerous business days. ([FINRA Case #2010022104201](#))

Fifth Third Securities, Inc. (CRD #628, Cincinnati, Ohio) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that its WSPs required the disclosure of material facts, including potential conflicts of interest, to investors at or prior to the time of sale, which is typically accomplished by the delivery of an offering statement. The findings stated that despite these procedures, the firm failed to disclose the existence of a potential conflict of interest in the offering statement for an issue of bonds for an entity. A firm Vice President of Public Finance served as a director on the board of the entity at the same time the firm was underwriting the issue of the bonds. This individual notified the firm of his position on the board on an outside business activity disclosure form. This information, however, was not included in the offering statement for the bonds for the entity. The findings also stated that the vice president published Internet advertisements without prior approval, which the firm failed to identify. The individual had previously published advertisements without the firm's prior approval. Despite these earlier incidents, the firm failed to establish and enforce procedures to ensure the individual's compliance with the applicable firm policy. The findings also included that the firm failed to timely notify the MSRB of a political contribution the individual made to his own campaign to become a member of the entity's board. The individual contributed \$555.55 to his own campaign and later notified the firm of the contribution. The firm notified the MSRB of the contribution in a Form G-37 filing submitted 269 days late. ([FINRA Case #2011025317201](#))

First Asset Financial, Inc. (CRD #139107, Salina, Kansas) 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 experienced problems that resulted in its failure to retain certain business-related email. The findings stated that some of the failures were directly attributable to the firm's third-party email vendor. The vendor experienced a system failure during which it did not archive any firm email, and some disks on which the vendor stored the firm's emails became corrupted, which resulted in the loss of 33 days' worth of firm emails. The findings also stated that the firm failed to retain emails sent by personnel to addresses outside of the firm's email domain. This failure resulted in a flaw in the firm's testing of its email-retention system. Although the system was not capturing outgoing messages, the firm's testing called for the recipient of the outgoing message to reply by email, which—unknownst to the individual conducting the test—created the false appearance that both the outgoing message and the resulting reply were retained. As a result, the firm did not realize that the system was not capturing outgoing emails. This situation continued for approximately two years. ([FINRA Case #2012030785501](#))

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 \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to timely report ROEs to OATS; submitted New Order Reports and related subsequent reports (*i.e.* Route Report, Cancel Report, Cancel/Replace Report or Execution Report) with incorrect timestamps; submitted Execution or Combined Order/Execution Reports that contained inaccurate, incomplete or improperly formatted data; submitted Route or Combined Order/Route Reports that OATS was unable to link to the related order in the NASDAQ Market Center due to inaccurate, incomplete or improperly formatted data; submitted Route or Combined Order/Route Reports that OATS was unable to match to the receiving firm's related New Order Report; and submitted New Order events it was not required to report. ([FINRA Case #2010025141301](#))

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 \$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 P1 transactions in TRACE-eligible corporate securities to the Trade Reporting and Compliance Engine® (TRACE®); failed to report the accurate volume and price for P1 transactions in TRACE-eligible corporate securities to TRACE; failed to report the accurate execution date for P1 transactions in TRACE-eligible corporate securities to TRACE; and failed to report the correct contra-party's identifier for P1 transactions in TRACE-eligible corporate securities to TRACE, and failed to report the accurate market identifier for one P1 transaction in a TRACE-eligible corporate security to TRACE. The findings stated that the firm failed to timely report P1 transactions in TRACE-eligible corporate debt securities within the appropriate T+1 time frame. The findings also stated that the firm failed to report new issue offerings to TRACE that it was required to report within the time frames set forth in FINRA Rule 6760. The findings also included that the firm failed to report S1 transactions in TRACE-eligible securities to TRACE within 15 minutes of the execution time. ([FINRA Case #2011027361201](#))

Israel A. Englander & Co., LLC (CRD #33725, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$12,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to transmit ROEs, all of which were Route Reports, to OATS on numerous business days. ([FINRA Case #2011027960101](#))

JHS Capital Advisors, LLC (CRD #112097, Tampa, Florida) 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, in connection with terminating its relationship with one clearing firm, it transferred accounts from the clearing firm to another clearing firm. The first clearing firm charged a fee of \$50 to transfer a non-qualified account and \$90 to transfer a qualified account to another clearing firm. The findings stated that in connection with this transfer

of accounts, the firm sent letter(s) to customers, advising them that it would liquidate the securities in their accounts, send the account proceeds to them, and close their accounts, if they did not transfer their accounts to another firm within a certain period, typically 30 days. In accounts from which the firm did not receive a response to the letter(s), it liquidated the securities in the accounts, sent the account proceeds to the customers, and closed the accounts. The firm did not have the requisite oral or written authority to execute such sales in non-discretionary accounts. The sales totaled approximately \$1.1 million.

[\(FINRA Case #2011026248501\)](#)

KBC Securities USA, Inc. (CRD #46709, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$11,500 and required to revise its WSPs regarding 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 all of its ROEs it was required to transmit to OATS on numerous business days. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning OATS reporting. [\(FINRA Case #2011029694401\)](#)

Landolt Securities, Inc. (CRD #28352, Oshkosh, Wisconsin) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$12,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to prepare order memoranda and did not retain any other documents showing the time that the firm received customer orders with respect to municipal securities transactions that it conducted on behalf of customers. The findings stated that the failure, which was limited to transactions placed by phone, rather than through an electronic bond-order system, was corrected by implementing written procedures requiring the creation of order tickets for all municipal-securities transactions. The findings also stated that with respect to municipal securities transactions that the firm conducted, for a little over a year, it reported inaccurate trade execution times to the MSRB. Those transactions involved securities that the firm had first purchased from a dealer on a riskless-principal basis and then sold to customers. Documents that the firm maintained, such as emails, instant messages and contra-firm order tickets, reflected execution times that were earlier than what the firm reported to the MSRB. The findings also included that for almost 11 months, the firm did not have a supervisory system or procedures, written or otherwise, designed to ensure that it obtained, investigated, and where appropriate, disclosed to customers material information about issuers of municipal securities. There is no evidence that, during this period, the firm or its representatives investigated or disclosed information about municipal securities issuers that would or might have been material to customers. Although the firm's WSPs stated that the firm's municipal securities principal or a designee would review all municipal securities transactions on a daily basis, the firm could not demonstrate that it had implemented that procedure. [\(FINRA Case #2011025851901\)](#)

Leerink Swann LLC (CRD #39011, Boston, Massachusetts) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$37,500 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 transmitted reports to OATS that contained an inaccurate special handling code, inaccurate order type codes, inaccurate times-in-force and inaccurate report types (the firm submitted execution reports when it should have submitted route reports). The findings stated that the firm provided written notification to customers that failed to disclose information or disclosed inaccurate information. The firm incorrectly disclosed that transactions were executed at an average price, failed to disclose that transactions were executed at an average price, failed to disclose its correct capacity in transactions, and/or failed to disclose the correct trade price. The findings also stated that the firm accepted short sale orders in an equity security from another person, or effected short sales in an equity security for its own account, without borrowing the security, or entering into a bona fide arrangement to borrow the security; or having reasonable grounds to believe that the security could be borrowed so that it could be delivered on the date delivery is due; and documenting compliance with SEC Rule 203(b)(1) of Regulation SHO. The findings also included that during one month, the firm made available a report on the covered orders in national market system securities it received for execution from any person that included incorrect information as to the number of covered orders, the cumulative number of shares of covered orders, and the cumulative number of shares of covered orders executed at any other venue. FINRA found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and/or FINRA rules addressing minimum requirements for adequate WSPs regarding SEC Rule 606, market maker registration volume thresholds; SEC Rule 605, accepting trades in a timely manner; affirmative determination; SEC Rule 204; naked short selling antifraud (SEC Rule 10b-21); trading during a halt; and clearly erroneous trade filings. FINRA also found that the firm failed to provide documentary evidence that on the trade date(s) reviewed it performed the supervisory reviews set forth in its WSPs concerning market order protection. ([FINRA Case #2010021594401](#))

Level ATS dba EBX LLC (CRD #138138, Boston, Massachusetts) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$47,500, and required to revise its WSPs regarding OATS and SEC Rule 605. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to transmit ROEs to OATS; the firm failed to send Cancel Reports to OATS. The findings stated that during one month, the firm made available a report on the covered orders in national market system securities it received for execution from any person. The report included incomplete and incorrect information as it failed to include an order in some instances and the firm used an incorrect national best bid and offer (NBBO) in another instance. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations, and FINRA rules addressing minimum requirements for adequate WSPs in OATS and SEC Rule 605. ([FINRA Case #2011026126201](#))

LPL Financial LLC (CRD #6413, Boston, Massachusetts) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$60,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it purchased municipal securities for its own account from a customer and/or sold municipal securities for its own account to a customer at an aggregate price (including any commission or service charge) 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. The findings stated that in corporate bond transactions, the firm failed to use reasonable diligence to ascertain the best inter-dealer market, and failed to buy or sell in such market so that the resultant price to its customer was as favorable as possible under prevailing market conditions. The findings also stated that the firm submitted evidence that it made restitution to each of the affected customers. ([FINRA Case #2009020204701](#))

Morgan Keegan & Company, Inc. (CRD #4161, Memphis, Tennessee) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$60,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that its Small Business Administration (SBA) Desk purchased U.S. government-guaranteed small business loans from small regional banks throughout the United States. After purchasing the loans, the SBA Desk pooled together loans with similar qualities, securitized them into SBA pools, and ultimately sold them to institutional customers. The demand for SBA pools began to decline. As a result, the SBA Desk inventory levels increased significantly and remained above the firm's allowable levels. The findings stated that the firm confronted the head trader about the excessive SBA Desk inventory levels and instructed him to sell a number of positions. Instead, the head trader manipulated SBA Desk inventory levels so that they appeared to be lower than they actually were (and thus in compliance with the firm's allowable inventory levels). Consequently, the head trader entered fictitious SBA pool trades totaling approximately \$82 million. The findings also stated that as a result of the fictitious trades, the firm believed that the SBA loan levels had decreased by a total of \$75 million. In addition to effecting the false trades, the head trader also repeatedly manipulated forward the settlement dates. As the settlement date for each fictitious order approached, the head trader moved forward the settlement date by 30 days to allow himself more time to sell the SBA pools, triggering the creation of cancel and correct tickets for the trades for several consecutive months. When confronted with the findings, the head trader admitted his misconduct and the firm terminated the head trader immediately. The findings also included that the firm's supervisory systems and WSPs for government loans, including SBA pools, were inadequate to prevent the head trader's fictitious trading. Among other things, the firm did not have a process to monitor SBA loans that were aged (more than 120 days old). While the firm's

WSPs outlined a process to review aged inventory related to all other securities, they did not include a process to review aged and unsettled SBA pools. In addition, the firm did not have a process to confirm and compare ex-clearing transactions, such as sales of SBA pools, or controls in place to review cancelled or modified transactions for reasonableness. The firm's risk management structure did not adequately address the distinct duties of the front and back offices, in that the back office personnel who handled the administration of trades reported directly to the head trader. This structure caused the delay in the firm's detection of the head trader's misconduct. FINRA found that the firm also inadequately addressed the marking of the SBA Desk inventory positions because the WSPs required that SBA pools be marked on a monthly basis, as opposed to a daily basis. The firm did not have WSPs that adequately prevented the head trader from approving his own transactions without additional supervisory oversight, and allowed the firm to detect and prevent the head trader's fictitious trading of SBA pools. ([FINRA Case #2009018062602](#))

Murphy & Durieu (CRD #6292, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$130,000 and required to revise its WSPs regarding TRACE reporting. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report the correct contra-party's identifier for transactions in TRACE-eligible securities to TRACE, and failed to report transactions in TRACE-eligible securities it was required to report. The findings also stated that the firm failed to report transactions in TRACE-eligible securities to TRACE within 15 minutes of the execution time; failed to report the correct trade execution time for transactions in TRACE-eligible transactions to TRACE; and failed to report the correct trade execution time in the correct format for some transactions to TRACE. The firm failed to show the execution time, or the correct execution time, on brokerage order memoranda. FINRA found that the firm failed to report the correct trade execution time for transactions in TRACE-eligible agency debt securities to TRACE, and failed to report these transactions to TRACE within 15 minutes of the execution time. FINRA also found that the firm failed to enforce its WSPs, which specified that the CCO would review the details of each trade report identified as a potential exception in the TRACE Quality of Markets Report Card and evidence such reviews with dates and initials. Moreover, FINRA found that the firm failed to establish, maintain and enforce a supervisory system reasonably designed to achieve compliance with applicable rules concerning TRACE reporting, and the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities rules, regulations and/or FINRA rules concerning TRACE reporting.

The findings stated that the firm failed to report to the FNTRF the correct symbol indicating whether the transaction was a buy, sell or cross and/or the correct contra-side executing broker in last sale reports of transactions in designated securities. The findings also included that the firm improperly reported information to the Real-time Transaction Reporting System (RTRS) that it should not have reported; the firm improperly reported purchase and sale transactions effected in municipal securities to the RTRS when the inter-

dealer deliveries were step-outs and thus were not inter-dealer transactions reportable to the RTRS. In addition, FINRA determined that the firm failed to report the correct trade time to the RTRS in municipal securities transaction reports. ([FINRA Case #2009020565001](#))

National Bank of Canada Financial, Inc. (CRD #22698, 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 reported holding inventory positions, with a market value of \$10,258,027, at CDS Clearing and Depository Services, Inc. (CDS) in the name of its Canadian affiliate. The firm, on a Financial and Operational Combined Uniform Single (FOCUS) Report characterized these proprietary positions as allowable assets (i.e. assets readily convertible to cash) in its net capital computation. The firm did not have sufficient possession and/or control of the proprietary positions held at CDS because they were not under the firm's name. In the event that the firm had needed to convert these inventory positions to cash, the proceeds would not have been readily available in the firm's name. Thus, the inventory positions should have been characterized as non-allowable assets (i.e. assets not readily convertible to cash). The firm re-characterized the \$10,258,027 inventory holdings as non-allowable assets. This mischaracterization of assets did not result in a net capital deficiency as there were sufficient net capital reserves to buttress the loss of the inventory holdings from the net capital computation; therefore, because the firm failed to properly characterize its inventory positions with its Canadian affiliate as non-allowable assets in its net capital computation, it maintained inaccurate net capital records and filed inaccurate FOCUS reports. The findings stated that the firm outsourced certain proprietary trading functions relating to the majority of its inventory to an unaffiliated third-party investment advisor (IA). The inventory positions under the third-party investment advisor's control had a market value of \$219,293,716. The individuals at the IA who performed the contracted trading functions on behalf of the firm were not registered with the firm. The findings also stated that no more than two individuals at the IA performed the contracted trading functions that were delineated in the agreement. The firm terminated its investment advisory relationship with the IA and all trading authority over the firm's inventory positions by the IA ceased. Because the firm outsourced part of its proprietary trading functions to the IA and provided it with broad discretionary trading authority, it was required to register, with the firm, the IA employees who performed the proprietary trading functions on the firm's behalf. The findings also included that the firm's WSPs did not include any provisions regarding its supervisory controls over the proprietary trading functions that were outsourced to the IA. Specifically, the firm's WSPs failed to detail the firm's risk management practices for the trading of its inventory positions by the IA (e.g., investment criteria, trading parameters, and product suitability guidelines).

FINRA found that the firm's general ledger commingled securities and non-securities related balances and transactions between the accounts of the firm, its parent, and other intercompany affiliates. The firm's financial systems permitted securities and non-securities related transactions to be recorded within the same general ledger accounts.

As a result, the firm improperly netted transactions and balances between intercompany securities and non-securities-related accounts. The firm eliminated all customer-related securities balances from its books and records, including intercompany securities transactions and balances, by the assignment of all-customer accounts to a clearing firm. In addition, a review of the firm's receivables from affiliates disclosed that the firm netted two separate bank loans. There was no netting agreement in place to reconcile these loans; therefore, the firm improperly netted a bank loan payable from one affiliate to another bank loan receivable from a different affiliate, resulting in it understating its non-allowable assets and liabilities on its balance sheet by \$60,317,046. ([FINRA Case #2011027999001](#))

NEXT Financial Group, Inc. (CRD #46214, Houston, Texas) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$250,000 and agreed to conduct an audit to identify all non-firm email accounts used for securities-related communications by registered persons of the firm and identify whether such email accounts are being captured by the firm's servers, reviewed as a part of its normal email surveillance, and retained as required by FINRA rules and the federal securities laws; establish and implement a corrective procedure to ensure that such email accounts will be captured, reviewed and retained by the firm in the future, and shall provide to FINRA a written statement describing the steps taken in the audit, the results of the audit, and the corrective steps taken to ensure the future capture, review and retention of the emails identified. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that for over four years, two of the firm's registered representatives operated an approved outside business activity and would, at times, use their outside business email accounts to send or receive securities-related electronic correspondence with customers. The findings stated that the firm's WSPs, allowed registered persons to communicate with customers through non-firm email addresses, as long as these outside email domain names were approved and hosted by the firm, such that the emails sent or received from these email accounts would be captured on the firm's server and could be reviewed as part of the firm's regular email surveillance. The findings also stated that the firm discovered during the annual branch audit of the registered representatives' branch that their outside business emails were not being captured or maintained on the firm's server and, therefore, were not being reviewed. The findings also included that despite this knowledge, the firm failed to take any corrective steps. Consequently, the firm failed to review, maintain and preserve securities-related electronic correspondence sent or received from the registered representatives' outside business email accounts. ([FINRA Case #2011028898802](#))

PNC Investments LLC (CRD #129052, Pittsburgh, Pennsylvania) 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 establish and maintain a supervisory system and WSPs reasonably designed to achieve compliance with Section 5 of the Securities Act of

1933. The findings stated that the firm's WSPs for compliance with Section 5 were limited to a section on private placements and offerings which addressed Regulation D, Rule 144 and private investments in public equity (PIPEs). The procedures restated the requirements, or exemptions, contained in the regulations, but provided for no supervisory structure to ensure compliance with Section 5. The firm's procedures did not address compliance generally with Section 5 and they were inadequate in setting forth the circumstances under which the firm should inquire into the registration or exemption status of securities in customer accounts. The procedures then in place did not specifically list the factors that the firm was required to evaluate or consider in order to determine whether it needed to inquire further before allowing a customer to sell potentially unregistered securities. The findings also stated that a firm customer engaged in an unregistered distribution of shares of securities and the firm's personnel incorrectly assumed that the shares were freely tradable, without restriction, based on, among other things, representations made by the customer in its account opening documentation and because the shares were received into the customer account directly from a transfer agent. In allowing the customer to sell its shares, the firm did not consider all of the factors relevant to a determination of whether the shares were unrestricted and eligible for resale. The findings also included that the customer and another individual sold a total of 1,099,900 shares of securities into the market, mostly by way of on-line trades, for proceeds of \$4,292,210 and the firm earned commissions of \$22,747 from the customer's sales of securities. The one exception from the customer's account selling securities was a single day in which it bought 5,000 shares. The purchase triggered an exception report, which resulted in the firm prohibiting purchases by the customer of more than 5,000 shares without a principal's approval. The customer's selling activity generated no exception reports. ([FINRA Case #2010025332301](#))

Regal Securities, Inc. (CRD #7297, Glenview, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$25,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to deliver official statements by settlement date to customers who purchased new issue municipal securities during a primary offering disclosure period. The findings stated that in all of these transactions, even though the firm was neither an underwriter nor part of the underwriting syndicate, it was required to deliver an official statement to each customer by settlement date. The firm failed to establish an adequate system, including adequate WSPs, with regard to the delivery of official statements in connection with sales of new issue municipal securities in secondary market transactions. The findings also stated that the firm failed to disclose to its customers certain information, including negative rating changes and a call notice, in connection with some municipal securities transactions. The findings also included that the firm failed to establish an adequate system, including WSPs, with regard to the disclosure of material events in connection with municipal securities transactions. ([FINRA Case #2011025857201](#))

StockCross Financial Services, Inc. (CRD #6670, Beverly Hills, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$20,000 and required to pay \$6,781.40, plus interest, in restitution to customers. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it sold (bought) corporate bonds to (from) customers and failed to sell (buy) such bonds at a price that was fair, taking into consideration all relevant circumstances, including market conditions with respect to each bond at the time of the transaction, the expense involved and that the firm was entitled to a profit. ([FINRA Case #2010021203401](#))

StormHarbour Securities LP (CRD #35997, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$23,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report transactions in TRACE-eligible securities to TRACE within 15 minutes of the time of execution and failed to report the correct time of trade execution for transactions in TRACE-eligible securities to TRACE. The findings stated that the firm failed to provide adequate and complete documentation for transactions in violation of Rule 17a-4 of the Securities Exchange Act of 1934 (the Exchange Act). The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations, and FINRA rules concerning TRACE reporting. For more than two years, the firm reported to TRACE that approximately 15.6 percent of the sampled TRACE eligible trades were customer trades when they were actually inter-dealer trades. The order tickets for inter-dealer transactions in TRACE-eligible securities transactions were not prepared in accordance with Exchange Act Rule 17a-3(a)(7) and NASD Rule 3110(a), in that the order memoranda did not indicate the times of receipt and the times of execution. ([FINRA Case #2009020689401](#))

TD Ameritrade, Inc. (CRD #7870, Omaha, Nebraska) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report to TRACE the correct trade execution time for P1 transactions in TRACE-eligible securities, and failed to show the correct execution time on most of the brokerage order memoranda related to these transactions. ([FINRA Case #2012033656501](#))

WFG Investments, Inc. (CRD #22704, Dallas, Texas) 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 amend, or to timely amend, certain registered representatives' Uniform Applications for Securities Industry Registration or Transfer (Forms U4) and/or Uniform Termination Notices for Securities Industry Registration (Forms U5) to disclose required information. The findings stated that specifically, the firm failed to timely amend certain registered representatives' Forms U4 to disclose a customer complaint that

alleged damages in excess of \$5,000, customer arbitration claims, and the settlement of a customer's arbitration claim for an amount in excess of \$15,000. The firm failed to disclose a customer complaint that alleged damages in excess of \$5,000 on a registered representative's Form U5, and failed to timely amend some other representatives' Forms U5 to disclose the settlement of customer complaints against them for amounts in excess of \$15,000. The findings also stated that the firm failed to timely make some NASD Rule 3070 filings to disclose the settlement of customer complaints for amounts in excess of \$15,000 each. The firm also failed to disclose a customer complaint, and failed to timely disclose other customer complaints pursuant to NASD Rule 3070. The findings also included that the firm failed to create and maintain a record of a customer complaint and related records that included the complainant's name, address, account number, date the complaint was received, name of each associated person identified in the complaint, description of the nature of the complaint, disposition of the complaint or, alternatively, failed to maintain a separate file that contained this information. FINRA found that the firm failed to report transactions in structured products to TRACE. The firm did not have an adequate supervisory system in place to detect unreported TRACE transactions. Although the firm's procedures stated that it would review a specific report to monitor for unreported TRACE transactions, it did not review the specified report and did not otherwise monitor for unreported TRACE transactions. ([FINRA Case #2011025624601](#))

Individuals Barred or Suspended

David Thomas Bartosiak (CRD #4933741, Registered Representative, Chicago, 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, Bartosiak consented to the described sanctions and to the entry of findings that after close of business, he submitted his resignation to his member firm. The findings stated that upon leaving the firm, Bartosiak took with him copies of documents and information concerning numerous firm customers. That weekend, Bartosiak accessed the firm's computer system to obtain contact details for his firm customers. The information Bartosiak took from the firm included nonpublic personal information, as that term is defined under Regulation S-P of the Securities Exchange Act of 1934. Bartosiak did not have permission to take the customer information, but did so in order to reestablish his customer relationships at his new broker-dealer. The firm's procedures and written agreement with Bartosiak prohibited him from taking nonpublic personal information about customers from the firm. The findings stated that upon joining his new firm, Bartosiak used this customer information to send correspondence to his customers and to attempt to reestablish his client relationships. The procedures for Bartosiak's new firm also prohibited him from using such information.

The suspension was in effect from June 17, 2013, through June 28, 2013. ([FINRA Case #2010025866201](#))

Conrad Tambalo Bautista (CRD #1582353, Registered Representative, McKinney, Texas) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Bautista consented to the described sanction and to the entry of findings that in response to a customer complaint against him, FINRA requested that he provide certain information and documents to address the complaint, and he complied with the request. The findings stated that based on concerns raised from review of the documents and information Bautista provided, FINRA made supplemental requests for documents and information from him. FINRA requested that Bautista produce certain bank records and other financial information in connection with an investigation into whether he may have engaged in fraudulent investment schemes, been involved in undisclosed outside business activities and/or private securities transactions, borrowed money from customers, and/or failed to disclose an Internal Revenue Service (IRS) tax lien on his Form U4. The findings also stated that Bautista, through his attorney, informed FINRA that he would not respond to supplemental requests from FINRA for documents and information. ([FINRA Case #2013035824101](#))

Robert John Beihoff (CRD #2986562, Registered Representative, Brookfield, Wisconsin) 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, Beihoff consented to the described sanction and to the entry of findings that while holding himself out as an exempt unregistered investment adviser, he effected securities transactions totaling \$27,845,000 in customers' securities accounts that were held away from, and owned by, non-customers of his member firms, and received at least \$81,413 in compensation. The findings stated that Beihoff utilized discretion, with customer authorization, while effecting securities transactions in some of the customers' accounts. Beihoff's firms and the executing broker-dealers where the accounts were held never accepted the accounts as discretionary. The findings also stated that Beihoff failed to notify his firms and the executing broker-dealers where the accounts were located, of his association with such member firms prior to effecting transactions using discretion in customer accounts. The findings also included that Beihoff provided incorrect responses to his firms on outside business activity disclosure forms that he knew or should have known were false and/or misleading. Beihoff incorrectly reported on annual compliance questionnaires that he had reported all sources of income to his broker-dealer, that he had ensured that all advisory fees had been paid through his broker-dealer, that he was complying with his broker-dealer's requirement that he not collect advisory fees while not registered as an investment adviser, that he did not have any discretionary accounts, and that he was not engaged in any consulting activity or investment advisory services. ([FINRA Case #2010025512301](#))

Kasemsante Guevara Boonswang (CRD #4213734, Registered Representative, Riverdale, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for two months. The fine must be paid either immediately upon Boonswang'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, Boonswang consented to the described sanctions and to the entry of findings that he failed to notify his firm that he had existing ownership interests in securities accounts at executing member firms, and failed to notify the executing firms that he had joined his firm as an associated person.

The suspension was in effect from May 6, 2013, through July 5, 2013. ([FINRA Case #2011028774301](#))

Stephen Wesley Bracken (CRD #1420736, Registered Principal, Zionsville, Indiana) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Bracken'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, Bracken consented to the described sanctions and to the entry of findings that he filed for and was granted a Chapter 7 bankruptcy petition and was discharged by a court order, but he willfully failed to disclose the bankruptcy to his member firms. The findings stated that Bracken was registered with FINRA through a firm when the bankruptcy petition was filed and when he was granted the discharge, but he willfully failed to file an amended Form U4 disclosing that he had filed a bankruptcy petition. In fact, after the petition had been filed and shortly before the discharge was granted, the firm filed an amended Form U4 on Bracken's behalf, but the amended Form U4 disclosed only a change of address and failed to disclose Bracken's pending bankruptcy. The findings also stated that Bracken left the firm, and, thereafter completed a Form U4 and submitted it to another member firm. Bracken willfully failed to disclose that he had filed a Chapter 7 bankruptcy petition. According to the firm, Bracken never advised the firm that he had filed a bankruptcy petition or that his debts were discharged through bankruptcy. The firm terminated Bracken.

The suspension is in effect from June 3, 2013, through September 2, 2013. ([FINRA Case #2012033463201](#))

Keli J. Brereton (CRD #1782571, Registered Representative, Spokane, Washington) submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$7,500 and suspended from association with any FINRA member in any capacity for two months. The fine must be paid either immediately upon Brereton's reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Brereton consented to the described sanctions and to the entry of findings that she engaged in a series of pre-arranged transactions in which she caused new-issue municipal bonds that she purchased in some of her outside accounts to be delivered to a

proprietary account of her member firm. The findings stated that Brereton would then use some of her other outside accounts to purchase the bonds from her firm and subsequently sell the bonds. Brereton shared the proceeds of these transactions with the firm. The findings also stated that when the purchase transactions in the outside accounts occurred, Brereton did not have sufficient funds or margin, or was not permitted to use margin, in those accounts to cover the transactions. As such, Brereton caused the member firms that held her outside accounts to improperly extend her credit for those transactions.

The suspension was in effect from May 6, 2013, through July 5, 2013. ([FINRA Case #2010024075701](#))

Jonathan Alfred Browder (CRD #5138072, Registered Representative, Phoenix, Arizona) 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 Browder'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, Browder consented to the described sanctions and to the entry of findings that he exercised discretion in a family member's securities account held at his firm. The findings stated that the firm's procedures prohibited representatives from exercising discretion in a customer's account. In limited circumstances, the firm allowed representatives to hold a power of attorney (POA) over an immediate family member's account. POAs needed to be preapproved by the firm and were allowed only in circumstances where the representative could show that the family member was experiencing an immediate physical or mental hardship. Browder did not have a POA that would allow him to manage the family member's securities account.

The suspension was in effect from May 20, 2013, through July 1, 2013. ([FINRA Case #2012032685601](#))

Jim Cao (CRD #5196343, Registered Representative, Troy, Michigan) submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Cao consented to the described sanction and to the entry of findings that he failed to provide written notice to his member firms of his affiliation with an entity. The findings stated that according to the entity's website, which Cao maintained, it was a financial services company specializing in portfolio management, investment advice and financial planning. The findings also stated that FINRA sent Cao a request for information relating to his affiliation with the entity, and Cao partially responded to FINRA's request for the information. FINRA further requested Cao produce additional information, which he failed to do, impeding FINRA's investigation. ([FINRA Case #2011027365201](#))

Glen W. Carnes (CRD #5486261, Registered Representative, Orange, 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, Carnes consented to the described sanction and to the entry of findings that he played a key role and was actively involved in the negotiation for him and his member firm client to potentially purchase a shell company through which Carnes and his client planned to acquire at least one other business and obtain a listing on the OTC Bulletin Board™. The findings stated that Carnes participated in this outside business activity without obtaining his firm's prior approval, contrary to firm policy. The findings also stated that FINRA requested that Carnes provide information and documents related to its investigation concerning the firm's allegations that Carnes had participated in an unapproved private securities transaction. Carnes' response included several false and misleading statements that minimized and mischaracterized his involvement with the shell company. ([FINRA Case #2011030775901](#))

Amy Sue Cermak (CRD #2187839, Associated Person, West Bloomfield, Michigan) submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity for 30 days. The fine must be paid either immediately upon Cermak's reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Cermak consented to the described sanctions and to the entry of findings that she effected wire transfers totaling \$13,400 from a firm customer's account to an unrelated third-party account after receiving fraudulent emails from someone purporting to be the customer. Cermak received emails from a hacker purporting to be the customer who requested the customer's account balance and then sent fully executed letters of authorization (LOAs) that fraudulently authorized wire transfers to an account at a third-party bank. The findings stated that Cermak did not authenticate the customer's signature contrary to firm policies and procedures, which required registered representatives and associated persons to speak to the customer prior to effecting a transfer of funds to an outside account. Cermak processed the transfers and falsely indicated on the firm's internal system that she spoke with the customer and verified the customer's identity. The findings also stated that after the customer discovered the improper wire transfers on her account, she contacted Cermak. While Cermak and the customer were discussing the fraudulent wire transfers, Cermak received another request from the hacker, requesting a third transfer of \$7,350. The hacker attached an executed fraudulent LOA to the request. Cermak did not respond to the request and contacted her firm's office management team and advised them of the previous transfers. The firm credited the customer's account for the full amount of the transfers. The findings also included that Cermak caused her firm to maintain false books and records related to the wire transfers.

The suspension is in effect from June 17, 2013, through July 16, 2013. ([FINRA Case #2012031987201](#))

Scottie Brent Chitwood (CRD #4469472, Registered Representative, Estill Springs, Tennessee) 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, Chitwood consented to the described sanction and to the entry of findings that in connection with recommendations to purchase variable annuities, he inaccurately represented to customers that the principal of their investments would be protected from loss. Chitwood's statements led these customers to believe incorrectly that their principal was protected from loss. Chitwood also failed to adequately disclose the surrender fees associated with the variable annuities he sold. The findings stated that Chitwood improperly exercised discretion in customers' accounts and engaged in an unauthorized trade on a customer's behalf. Chitwood did so by making mutual fund purchases without the customers' prior authorization. The findings also stated that Chitwood made inaccurate investment-objective entries on new account documents for customers, thereby causing his firm to create and maintain inaccurate books and records. ([FINRA Case #2011027571901](#))

Nicholas Angelo Corso (CRD #2256611, Registered Supervisor, Westlake Village, California) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 10 business days. The fine must be paid either immediately upon Corso'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, Corso consented to the described sanctions and to the entry of findings that he engaged in an outside business activity, a limited liability company, without providing prompt written notice to his firm.

The suspension was in effect from June 3, 2013, through June 14, 2013. ([FINRA Case #2012031364201](#))

Huel Cox Jr. (CRD #1638341, Registered Principal, Phoenix, Arizona) 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, Cox consented to the described sanction and to the entry of findings that he solicited a friend, who was also a customer of his member firm, to make various investments in real estate and a casino. The customer agreed to make the investments and, over a period of years, wrote personal checks payable to Cox for the purported investments. The findings stated that Cox did not make any of the promised real estate investments for the customer but, instead, misappropriated at least \$206,398.89 of the customer's funds for his own personal use without the customer's authorization. ([FINRA Case #2011029621801](#))

Stanley Lee Dalton (CRD #2328356, Registered Representative, Raleigh, North Carolina) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 30 days. The fine must be paid either immediately upon Dalton'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, Dalton consented to the described sanctions and to the entry of findings that he received approximately \$6,357 in compensation for serving as an elderly individual's POA and estate executor, without obtaining his firm's approval. The findings stated that as POA for the individual, Dalton performed a variety of services such as consulting with the resident manager of the individual's long-term-care facility, paying the individual's bills, reviewing the individual's bank statements, filing the individual's tax returns and helping the individual establish a charitable trust. The findings also included that on a questionnaire, Dalton represented to his firm that he had disclosed and received approval for all of his outside business activities when he had not.

The suspension was in effect from June 3, 2013, through July 2, 2013. ([FINRA Case #2011030756401](#))

Alan Jay Davidofsky (CRD #1389312, Registered Representative, Delray Beach, Florida) was fined \$11,741.78, plus interest, which represents disgorgement, and barred from association with any FINRA member in any capacity. The National Adjudicatory Council (NAC) imposed the sanctions following appeal of an Office of Hearing Officers (OHO) decision. The sanctions were based on findings that Davidofsky effected unauthorized trades in a customer's traditional Individual Retirement Account (IRA) at his member firm, had de facto control over the account, and excessively traded in the account, which was inconsistent with the customer's financial circumstances and investment objectives. The findings stated that Davidofsky excessively traded the accounts with scienter, and consequently, churned the customer's account. The findings also stated that the firm had warned Davidofsky to get his numbers up, and he undertook the excessive trading in the customer's account to solidify his tenuous employment position at the firm and generate additional commissions for himself. ([FINRA Case #2008015934801](#))

Turker Ergun (CRD #4347758, Registered Representative, Irvine, 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, Ergun consented to the described sanction and to the entry of findings that he failed to appear for an on-the-record interview regarding circumstances of his termination from a member firm and a customer complaint alleging misappropriation of at least \$100,000. The findings stated that Ergun's attorney notified FINRA that Ergun would not appear for his on-the-record interview. ([FINRA Case #2012034101801](#))

Jessica Lyn Fenner (CRD #4437897, Associated Person, Washington, New Jersey) 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, Fenner consented to the described sanction and to the entry of findings that she photocopied a firm customer's signatures and affixed them to withdrawal forms to withdraw a total of \$36,000 from the customer's variable annuity and transfer the funds into a bank account

she controlled, without the permission or authority of the customer or her member firm to engage in this conduct. Fenner converted the \$36,000 by forging the customer's signature on the account-withdrawal forms. ([FINRA Case #2012034801201](#))

Janet Louise Frakes (CRD #3120413, Registered Representative, Independence, Kentucky) 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, Frakes consented to the described sanction and to the entry of findings that she misappropriated more than \$100,000 from an elderly customer's account and \$16,000 from another elderly customer's account at a bank. The findings stated that Frakes perpetrated the misappropriation of the customers' money partially by means of submitting bogus withdrawal slips. Frakes signed a customer's withdrawal slips as POA or POA on file; however, the bank had no record of a POA on file for the account. The findings also stated that FINRA sent Frakes a request for, among other things, a signed statement responding to the misappropriation allegations. Frakes' attorney sent a letter to FINRA refusing to provide a written statement. ([FINRA Case #2012033857101](#))

Vincent James Giovinazzo (CRD #2882737, Registered Representative, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Giovinazzo consented to the described sanction and to the entry of findings that his member firm filed a Form U5 that indicated he was discharged. The findings stated that during the course of a FINRA investigation, FINRA sent a letter to Giovinazzo's counsel requesting Giovinazzo provide on-the-record testimony. Through his counsel, Giovinazzo informed FINRA that he did not intend to provide testimony to FINRA in connection with its investigation. Giovinazzo failed to provide testimony as required and has not provided testimony to date. ([FINRA Case #2012032847401](#))

Aubrey Jay Gore Jr. (CRD #1147956, Registered Representative, Georgetown, South Carolina) 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 five months. Without admitting or denying the findings, Gore consented to the described sanctions and to the entry of findings that he participated in private securities transactions by facilitating the offer and sale of various securities to investors away from his member firm. The findings stated that Gore referred each investor to an individual who was not associated with his firm and was selling the securities. Gore facilitated the individual's meeting with each investor, made his office and staff available to facilitate the sales, and accepted and mailed applications and investment checks to the individual. Gore did not receive any compensation for his participation in the transactions. The findings also stated that prior to participating in the private securities transactions, Gore did not notify his firm of the transactions or his proposed role in the transactions. In response to the firm's annual business questionnaires, Gore inaccurately represented that he had not engaged in any private securities transactions.

The suspension is in effect from June 3, 2013, through November 2, 2013. ([FINRA Case #2011029516301](#))

Jeremy David Hare (CRD #2593809, Registered Representative, Narberth, Pennsylvania) was barred from association with any FINRA member in any capacity. The NAC dismissed the appeal Hare filed regarding the Hearing Panel decision, and the Hearing Panel decision shall constitute FINRA's final disciplinary action with respect to the matter. The NAC asked Hare to submit a written statement explaining why his appeal in the matter should not be dismissed as abandoned, and he failed to file the required statement. The sanction was based on findings that Hare provided false and misleading information to FINRA in connection with its investigation into a customer's complaint alleging unauthorized trading and other sales practice violations. The findings stated that the Hearing Panel dismissed the allegation that Hare exercised discretion in a customer's account without written authorization. ([FINRA Case #2008014015901](#))

Mohamed S. Hassan aka Max Hassan (CRD #5108964, Registered Representative, Sunnyvale, California) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Hassan failed to provide testimony as FINRA requested. The findings stated that after Hassan's member firm filed an amendment to his Form U5, FINRA began an investigation into Hassan's conduct in connection with his submission of variable annuity documents, and FINRA requested that he appear and provide testimony. ([FINRA Case #2010023435701](#))

Osi Trevor Isaacs aka Peter Isaacs (CRD #2724629, Registered Representative, Brooklyn, New York) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Isaacs failed to timely respond to FINRA requests for information regarding unauthorized trades in a customer's accounts. The findings stated that Isaacs failed to respond in any manner to additional FINRA requests for information regarding undisclosed judgments or liens. ([FINRA Case #2011030031502](#))

Daniel Craft Jones (CRD #1114387, Registered Representative, Gaithersburg, Maryland) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for one year. The fine must be paid either immediately upon Jones' 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, Jones consented to the described sanctions and to the entry of findings that he willfully failed to disclose felony convictions on his Form U4 and affirmatively concealed them by making false statements on his firm's questionnaires, and in doing so was able to continue his registration with his firm for four years while subject to statutory disqualification.

The suspension is in effect from June 3, 2013, through June 2, 2014. ([FINRA Case #2012033882001](#))

Tiara Monique Jones (CRD #5366042, Registered Representative, Dolton, Illinois) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Jones misappropriated funds from customers by withdrawing \$1,000 from their joint bank checking account without their knowledge and consent. The findings stated that Jones assisted the bank customers, a husband and wife, with the purchase of a \$50,000 fixed annuity at the bank branch where she worked. At Jones' direction, the customers each signed separate blank withdrawal slips from their joint bank checking account. Jones filled in the date, customer name, amount and account number on the withdrawal slip the husband had signed, and then used the slip to process the annuity transaction. Jones also filled in the date, customer name and account number on the withdrawal slip the wife had signed, and then filled in a withdrawal amount of \$1,000. The next day, Jones' branch manager informed her that the customers had complained to the bank about the unauthorized withdrawal of \$1,000. Jones then created a deposit slip in the husband's name and deposited \$1,000 into the customers' joint bank account. The findings also stated that Jones willfully failed to disclose material information on her Form U4 to report unsatisfied judgments and a bankruptcy petition. The findings also included that Jones failed to appear and testify at on-the-record interviews despite being properly served. ([FINRA Case #2011029429001](#))

John Sean Kennedy (CRD #2660518, Registered Representative, Encino, California) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$15,000 and suspended from association with any FINRA member in any capacity for eight months. The fine must be paid either immediately upon Kennedy'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, Kennedy consented to the described sanctions and to the entry of findings that he informed a member firm customer of an opportunity to invest in a promissory note issued by a publicly-traded company. Kennedy facilitated the customer's signing of a \$100,000 promissory note by withdrawing \$100,000 from the customer's IRA, without informing his firm of his participation in the transaction and contrary to his firm's WSPs, which prohibited its associates from participating in private securities transactions without the firm's prior written approval. The findings stated that Kennedy, without his firm's knowledge or consent, served as president, officer and registered agent of a corporation contrary to his firm's prohibition from participating in an outside business activity without prior firm approval. The findings also stated that Kennedy failed to file federal and state tax returns for four years which, represents unethical conduct and is inconsistent with just and equitable principles of trade.

The suspension is in effect from June 3, 2013, through February 2, 2014. ([FINRA Case #2011028005201](#))

Michael John Kmetz (CRD #4430001, Registered Principal, Cazenovia, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Kmetz consented to the described sanction and to the entry of findings that he failed to appear for testimony and provide documents to FINRA in connection with a complaint from an elderly investor, who alleged that Kmetz had engaged in a variety of business activities and transactions with him away from his member firm. The findings stated that Kmetz advised FINRA, through his counsel, that he would not respond to its request for documents or testimony. ([FINRA Case #2013035808901](#))

Patricia Lane (CRD #5351167, Associated Person, Staten Island, New York) 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, Lane consented to the described sanction and to the entry of findings that she converted funds from an investment banker at her member firm for her personal use and benefit. The findings stated that while employed as the administrative assistant to the investment banker, Lane used the investment banker's corporate credit card to obtain cash advances and pay her bills, without the investment banker's knowledge or authorization. Lane's unauthorized credit card transactions totaled \$4,715. The findings also stated that the investment banker unknowingly paid for Lane's unauthorized credit card transactions. Lane coded her credit card transactions as personal on the investment banker's expense reports. The investment banker, believing they were his, paid the credit card company for these charges. ([FINRA Case #2013035426101](#))

Terry Dale Lester (CRD #817499, Registered Representative, Houston, 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 30 business days. The fine must be paid either immediately upon Lester'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, Lester consented to the described sanctions and to the entry of findings that he effected discretionary transactions in accounts a customer held, without obtaining the customer's prior written authorization and without having the accounts accepted as discretionary accounts by his member firm.

The suspension was in effect from May 20, 2013, through July 1, 2013. ([FINRA Case #2011030007001](#))

Debra Kay Littlefield (CRD #2312877, Registered Representative, Inman, South Carolina) submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity for two months. Without admitting or denying the findings, Littlefield consented to the described sanctions and to the entry of findings that she recommended that certain customers purchase variable annuity policies and senior common stock in a real estate investment trust (REIT)

with funds sourced from the customers' existing and recently liquidated fixed and variable annuities. The findings stated that Littlefield falsified her firm's books and records by completing and submitting documents without showing the sources of funds as annuities and not accurately disclosing those transactions that were replacements. Littlefield's firm required her to accurately disclose the sources of funds and whether the transactions were replacements. By failing to identify replacement transactions on firm records, Littlefield caused her firm's books and records to be inaccurate.

The suspension is in effect from June 17, 2013, through August 16, 2013. ([FINRA Case #2010025732001](#))

Jeffrey Elliott Ludwick (CRD #2267071, Registered Representative, San Antonio, Texas) submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member in any capacity for three months. In light of Ludwick's financial status, no monetary sanction has been imposed. Without admitting or denying the findings, Ludwick consented to the described sanction and to the entry of findings that he accepted a total of \$25,000, in separate loans, from his customer, and, at the time of the loans, Ludwick was aware that his member firm's policies and procedures prohibited borrowing money from customers. The findings stated that the initial loan of \$20,000 had a corresponding promissory note and the second loan of \$5,000 did not have a corresponding promissory note. To date, Ludwick has failed to repay any of the loan amounts to the customer. The findings also stated that Ludwick misrepresented that he was in compliance with the firm's policies and procedures.

The suspension is in effect from May 20, 2013, through August 19, 2013. ([FINRA Case #2012034017101](#))

Patrick Gregory Mackaronis (CRD #5435817, Registered Representative, Wood-Ridge, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$15,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Mackaronis' 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, Mackaronis consented to the described sanctions and to the entry of findings that he referred firm customers to the owner of a consulting company that offered private placement investments and facilitated these customers in private securities transactions totaling \$183,430, without the firm's knowledge or permission. The findings stated that Mackaronis' firm's policies and procedures prohibited representatives from soliciting clients and prospects to participate in any private securities transaction not associated with the firm, whether or not the representative received compensation for doing so. The findings also stated that Mackaronis established a financial consulting services company outside the scope of his association with his firm. Firm policies and procedures prohibited associates from participating in an outside business activity without giving prior notice and receiving prior approval from the firm.

The suspension is in effect from June 3, 2013, through December 2, 2013. ([FINRA Case #2012033840501](#))

John K. Marrone II (CRD #4625680, Registered Representative, Phoenix, Arizona) submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for one year. The fine must be paid either immediately upon Marrone'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, Marrone consented to the described sanctions and to the entry of findings that he submitted inaccurate expense reports to his firm in which he purported to list travel and entertainment expenses that he had incurred while conducting the firm's business and sought reimbursement for those expenses. The findings stated that as a result, Marrone improperly obtained reimbursements in the total amount of approximately \$2,746.82 from the firm to which he was not entitled, contrary to the firm's policies. The findings also stated that when Marrone requested reimbursements for the expenses, he knew, or should have known, that he was not entitled to such reimbursements.

The suspension is in effect from May 20, 2013, through May 19, 2014. ([FINRA Case #2009019657702](#))

Kenneth Andrew Mauchin (CRD #2366345, Registered Principal, Sanford, Florida) was barred from association with any FINRA member in any capacity. FINRA's Enforcement Department did not seek restitution because the member firm reimbursed the customers. The sanction was based on findings that Mauchin withdrew \$23,750 from customer accounts and used the funds to purchase cashier's checks that he deposited into an account that he controlled. Mauchin falsely listed his work address as the mailing address for customer accounts, which prevented the customers from detecting Mauchin's misappropriation of funds. The findings stated that as a result, Mauchin caused his firm to have false books and records. The findings also stated that Mauchin failed to appear for FINRA on the record testimony. ([FINRA Case #2011028452701](#))

Eric Jason McMahon (CRD #2566978, Registered Representative, Canonsburg, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for two months. The fine must be paid either immediately upon McMahon'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, McMahon consented to the described sanctions and to the entry of findings that he recommended, and his customers determined to purchase, variable annuities with a feature permitting an annual 15 percent non-cumulative withdrawal without surrender fees. The findings stated that McMahon recommended to his customers that they use the proceeds from the free withdrawals to reinvest

the proceeds into variable annuities and other products in their respective brokerage accounts; the customers agreed to this. McMahon provided each of his customers with a blank annuity withdrawal form to review and sign in blank, and explained that when the time came to withdraw funds, he could confirm their intention to withdraw and reinvest the proceeds and complete the blank, previously signed withdrawal forms as an accommodation. McMahon obtained verbal approval from the customers at the time the forms were submitted. The findings also stated that the re-use of blank, previously signed forms to cause future withdrawals resulted in the creation of false business documents.

The suspension is in effect from June 3, 2013, through August 2, 2013. ([FINRA Case #2010023549601](#))

Richard Roy Miller (CRD #4275076, Registered Representative, Zanesville, 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 15 business days. The fine must be paid either immediately upon Miller's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Miller consented to the described sanctions and to the entry of findings that he solicited purchases in low-priced securities to customers, resulting in purchase transactions by those customers. The findings stated that Miller's member firm prohibited the solicitation of low-priced securities and required its registered representatives to obtain a non-solicitation letter for each low-priced securities transaction. Miller had the customers fill out non-solicitation letters and improperly marked most of the transactions as unsolicited, when, in fact, they were solicited. The findings also stated that consequently, Miller caused his firm's books and records to be inaccurate.

The suspension was in effect from June 3, 2013, through June 21, 2013. ([FINRA Case #2011029923201](#))

Richard Montenegro Jr. (CRD #2747462, Registered Representative, Bellport, New York) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Montenegro failed to provide testimony, as FINRA requested. The findings stated that FINRA began investigating Montenegro to determine if he was engaged in sales practice violations in connection with variable annuity and private securities transactions; and after not receiving all the documents it had requested from him, FINRA sent him a request for on-the-record testimony, for which he failed to appear. The findings also stated that Montenegro appeared and began testifying, but shortly thereafter he requested an adjournment, which was granted, for a medical appointment and to obtain counsel. Montenegro failed to return for its completion even following the issuance of a request rescheduling his on-the-record interview and another request seeking his testimony. Montenegro, since then, has not contacted FINRA. ([FINRA Case #2011030392502](#))

Edwin Efrain Mosquera (CRD #3049414, Registered Representative, Howard Beach, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. In light of Mosquera's financial status, no monetary sanction was imposed. Without admitting or denying the findings, Mosquera consented to the described sanction and to the entry of findings that he recommended and engaged in unsuitable and excessive trading in customer accounts. The findings stated that all the customers were unsophisticated investors with limited education. In two instances, English was the customers' second language; and in another case, the customer did not speak or read English. All the customers trusted Mosquera to handle their accounts and gave him trading authority, either through written authority or through verbal authority. Mosquera did not obtain the requisite prior written authorization from the customers or the firm to trade on a discretionary basis in connection with the accounts. The findings also stated that the trading in each account showed a pattern of buying and selling certain securities within short time periods while earning Mosquera significant commissions. During a very volatile time in the market, Mosquera recommended and engaged in unsuitable leveraged and inverse ETF transactions in each of the accounts. The findings also included that each customer filed an arbitration claim against the member firm and Mosquera, and the firm settled the matters. Mosquera did not contribute to the settlements. ([FINRA Case #2011029222402](#))

Frank Oswaldo Naula (CRD #1344900, Registered Representative, Merrick, New York) was barred from association with any FINRA member in any capacity. In light of Naula's financial status, no monetary sanction was imposed. The sanction was based on findings that Naula signed separate promissory notes representing numerous loans totaling approximately \$245,000 from his customer, contrary to his member firm's written procedures that prohibited a registered representative from borrowing money from a customer unless the customer was an immediate family member and the representative obtained the firm's proper written approval. The customer was not a member of Naula's family and Naula did not even attempt to obtain firm approval. The firm knew nothing about the loans until the customer's estate asserted its claims in arbitration. The findings stated that Naula failed to appear for an on-the-record interview despite having notice and repeatedly obtaining a postponement. ([FINRA Case #2011027702801](#))

Jeffrey Ng (CRD #1234807, Registered Principal, Stamford, Connecticut) was fined \$25,000 and suspended from association with any FINRA member in any capacity for two years. The NAC imposed the sanctions following appeal of an OHO decision. The sanctions were based on findings that Ng failed to notify his employer firm in writing that he had undisclosed outside brokerage accounts at two other member firms. He also failed to notify those other firms that he was associated with a FINRA member firm; rather, he made false statements on the executing broker-dealer applications concerning his occupation. The findings stated that Ng held one of the undisclosed brokerage accounts at a member firm that was not on the list of his employer's approved outside brokerage firms, and Ng never sought an exception to this policy. Ng also engaged in securities transactions in a limited partnership

in these undisclosed accounts that were on his employer firm's restricted list. He did not disclose that had engaged in the trading of this restricted stock and moreover the trades violated his employer firm's buy and hold periods. The findings also included that although Ng apologized for misleading his firm's vice president about the outside brokerage accounts at the one member firm, he continued to hide the existence of his accounts at the other member firm.

The suspension is in effect from June 17, 2013, through June 17, 2015. ([FINRA Case #2009019369302](#))

Henry Nguyen (CRD #5815024, Registered Representative, San Jose, 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, Nguyen consented to the described sanction and to the entry of findings that he engaged in a scheme to sell bank customer profile information to an unauthorized individual. Nguyen used bank resources to target bank customers who met a certain demographic profile, and then used their bank customer account numbers to access their bank customer signature cards and forwarded this information to the unauthorized individual, expecting to receive payment for each set of information he provided. The findings stated that this conduct resulted in unauthorized withdrawals from bank customer accounts. ([FINRA Case #2013036054002](#))

Jennifer Lynn Norman (CRD #2855017, Registered Representative, Paris, Kentucky) submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity for four months. The fine must be paid either immediately upon Norman's reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Norman consented to the described sanctions and to the entry of findings that while serving as a registered sales assistant with her member firm, she altered information on LOAs submitted by firm customers pursuant to the customers' verbal instructions. Norman also altered the amount of funds to be wired on one LOA. By altering the customers' LOAs, Norman caused the firm to maintain inaccurate business records. The findings stated that Norman received trade orders directly from firm customers and attempted to enter the trades in the firm electronic order system, and properly coded each trade order as received directly from the customer. The trade order system rejected each trade because Norman was not permitted to enter trades directly from customers. Upon notice of each rejected trade, Norman changed the coding for each trade to "received order from financial adviser," which permitted her to enter and effect the execution of the orders. Norman's representations on the order tickets were false. The findings also stated that by entering inaccurate information on customer trade orders, Norman caused her firm's books and records to be false.

The suspension is in effect from June 3, 2013, through October 2, 2013. ([FINRA Case #2011029038401](#))

Carlos Francisco Otalvaro aka Francisco Hormillosa Otalvaro (CRD #2294420, Registered Principal, Coral Gables, Florida) was barred from association with any FINRA member in any capacity and ordered to pay \$5,302, plus interest, in restitution to a customer. The sanctions were based on findings that Otalvaro misused customer funds when a customer sent a check to his member firm to be credited to her rollover IRA account, but the firm deposited the check into its own checking account and used the proceeds to pay its operating expenses. Approximately six months later, the customer contacted Otalvaro about the check that had not been deposited; and despite the customer's repeated and continuing entreaties, he failed to see that her account was credited or she was reimbursed. Otalvaro engaged in stalling tactics even as of the time he testified more than 18 months later in connection with FINRA's investigation, he was promising to work out a payment plan. Otalvaro never rectified his firm's misappropriation; Securities Investor Protection Corporation (SIPC) ultimately honored the claim for return of funds. The findings stated that after a customer delivered \$5,302 to Otalvaro's firm for deposit into its account and declined the cash because his firm did not accept cash, he delayed returning the cash. Even after repeated demands for its return, Otalvaro did not return it and claimed to have placed it in storage. The findings also included that Otalvaro provided incomplete responses to FINRA's requests for documents and information. ([FINRA Case #2010024837301](#))

Ralph Anthony Saviano (CRD #1081879, Registered Principal, Bound Brook, New Jersey) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Saviano failed to provide information and documents FINRA requested and failed to appear for a FINRA on-the-record interview. The findings stated that the requests were in connection with an investigation concerning Saviano's failure to disclose unsatisfied tax liens and civil judgments, as well as specified financial accounts under his and his wife's control, and loans from customers. ([FINRA Case #2012032970401](#))

Kapil Shashikant Shah aka Shah Shashikant Shah (CRD #4409290, Registered Principal, Jersey City, New, Jersey) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Shah failed to respond to a FINRA request for information and documents in connection with an investigation that Shah made unsuitable recommendations and misrepresentations to a customer. The findings stated that FINRA sought information about Shah's relationship with the customer, the rationale for the transactions in the customer account, whether the customer authorized certain transactions and whether the customer gave Shah discretionary control over the account. Shah informed FINRA that he was not going to respond to the information request, and consistent with his expressed intent, has not provided the requested information. ([FINRA Case #2011027840902](#))

Carlos Mark Silva (CRD #5913918, Registered Representative, Bridgeport, Connecticut) 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, Silva consented to the described sanction and to the entry of findings that while serving as a bookkeeper for his member firm, he converted approximately \$1.4 million belonging to his firm. The findings stated that as a bookkeeper, Silva had access to the firm's accounting system and was responsible for, among other things, processing vendor and expense payments. Silva prepared checks payable to vendors for goods and services the firm provided, which were signed by a firm principal. Silva discarded the checks and issued new checks payable to himself for the same amount. To avoid detection, Silva accessed the firm's accounting system and replaced the vendor check number with the check number of the check made payable to himself. Silva converted more than \$456,000 through this method. Silva issued checks payable to himself totaling more than \$333,000 by entering the name of another firm employee as the payee for the check in the firm's accounting system. Silva issued checks totaling over \$52,000 to an alias and issued checks totaling at least \$587,000 to firm employees and vendors which were endorsed and deposited into accounts of third parties associated with Silva. Silva forged the signatures of the firm's principals on the checks. The findings also stated that Silva's altered records in the firm's accounting system, causing the firm to maintain inaccurate books and records. ([FINRA Case #2013036062401](#))

Dennis Joseph Snyder (CRD #429777, Registered Principal, St. Bonifacius, 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 30 days. Without admitting or denying the findings, Snyder consented to the described sanctions and to the entry of findings that he failed to timely disclose that he was subject to federal and state tax liens and that he had filed a bankruptcy petition under Chapter 7 of the U.S. Bankruptcy Code.

The suspension is in effect from June 17, 2013, through July 16, 2013. ([FINRA Case #2011030172101](#))

Gary Mitchell Spitz (CRD #1828144, Registered Principal, Fairfield, Iowa) 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 one year. Without admitting or denying the findings, Spitz consented to the described sanctions and to the entry of findings that as the firm's principal, he failed to conduct adequate initial and ongoing due diligence of an entity, a Regulation D, Rule 506 private offering of up to \$2,000,000, as required by his member firm's WSPs. The findings stated that as a result of Spitz's deficient review, he failed to ensure that the offering memorandum contained audited financials of the issuer, and did not ensure that audited financials were available to the non-accredited investors prior to the time of sale, which is a requirement of Regulation D. The findings also stated that Spitz permitted some registered representatives, who

associated with the firm in order to sell shares of the entity, to submit offering documents executed by customers directly to the entity. As a result, Spitz neither received copies of those documents, nor conducted a suitability review of the transactions prior to their execution. Some customers invested in the entity before Spitz received the subscription documents from the representatives. Spitz failed to take steps to ensure that these representatives selling the entity's shares made a reasonable effort to obtain information concerning the customers' financial status, investment objectives and risk tolerance. The findings also included that Spitz failed to review or retain email correspondence for these representatives who associated with the firm to sell the entity's shares. These representatives were also employees of a company, the manager of the entity. Spitz permitted these representatives to use an email address of the company to communicate with prospects and customers, and the firm's server did not capture these emails. There weren't any procedures in place to ensure that the dually employed representatives forwarded email correspondence from outside email accounts to Spitz for review and retention. As a result, the representatives made exaggerated, unwarranted, and potentially misleading statements to customers and prospects.

The suspension is in effect from June 3, 2013, through June 2, 2014. ([FINRA Case #2012030787301](#))

David Eric Stockman (CRD #3249259, Registered Representative, Norton, 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 four months. The fine must be paid either immediately upon Stockman'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, Stockman consented to the described sanctions and to the entry of findings that he copied previously published articles that addressed economic and financial issues, and sent the articles to firm customers under his own name while representing that the articles were his own research and commentary. The findings stated that Stockman had not obtained firm review or approval for the articles prior to mailing them to the customers. In fact, Stockman knew that the firm would not have approved the mailing of any of the articles to customers because the content of the articles was contrary to the firm's research. The findings also stated that when the firm confronted him, Stockman denied that he had plagiarized the articles he had sent to customers until the firm presented Stockman with copies of the original articles.

The suspension is in effect from May 20, 2013, through September 19, 2013. ([FINRA Case #2012033507601](#))

Adoris Sheldon Turner II (CRD #4804592, Registered Representative, Dallas, Texas) submitted an Offer of Settlement in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for two years. The fine must be paid

either immediately upon Turner'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, Turner consented to the described sanctions and to the entry of findings that he created and distributed documents that contained false and misleading statements purporting to authorize the issuance of an \$18 million promissory note by his bank. The bank lacked any knowledge of Turner's activities regarding the creation and distribution of the documents or the prospective transaction pursuant to which Turner created and distributed them. The bank did not authorize the issuance of the note or the documents. The findings also stated that Turner held himself out as a person authorized to negotiate and approve issuance of the promissory note, which was not true.

The suspension is in effect from May 20, 2013, through May 19, 2015. ([FINRA Case #2010025029401](#))

Timothy Ruben Ward (CRD #2600718, Registered Representative, Dexter, Missouri) 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, Ward consented to the described sanction and to the entry of findings that he solicited customers to buy a mutual fund. The customers gave Ward \$10,000 in cash to invest in the mutual fund. Instead of investing the funds, Ward converted the funds for his own personal use and then provided the customers with false quarterly account statements that showed that the money had been invested in the mutual fund. The findings stated that Ward borrowed at least \$10,000 in total from firm customers in violation of the firm's written policy prohibiting lending arrangements with customers. Ward did not give written notice to, nor obtain prior written approval from, the firm for any of the loans he received from the customers. The findings also included that Ward settled a customer complaint without notifying the firm. FINRA found that a firm customer purchased a variable annuity contract in the amount of \$52,000. Due to a misunderstanding between the customer and Ward regarding the product, the customer decided to terminate the contract. The customer was beyond the free look period and thus subject to surrender charges in the amount of \$4,454.54. Ward settled the complaint by paying the customer the full amount of the surrender charges via cashier's checks without notifying the firm. ([FINRA Case #2013036640801](#))

Douglas Michael Weakland (CRD #1388140, Registered Representative, Northern Cambria, 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 Weakland'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, Weakland consented to the described sanctions and to the entry of findings that he used correction fluid to alter the dates on numerous

withdrawal forms for fixed and variable annuities for customers. The findings stated that Weakland did this to reuse the forms to facilitate authorized withdrawals. Weakland then submitted the altered forms to his firm for processing.

The suspension is in effect from June 3, 2013, through September 2, 2013. ([FINRA Case #2012031460701](#))

Homer Daniel Winter III (CRD #1441654, Registered Representative, Earlysville, Virginia) 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 14 months. The fine must be paid either immediately upon Winter's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Winter consented to the described sanctions and to the entry of findings that he engaged in business outside the scope of his employment with his member firm by providing household management services to his customers, for which he received at least \$84,000 for such services. The findings stated that Winter did not inform the firm about this business activity, and in annual attestations falsely certified to the firm that he had not been engaged in any outside business activity, except for those previously disclosed. The findings also stated that Winter provided FINRA with false information in response to a written request. Winter claimed that the customer had not compensated him for anything. In fact, Winter had received at least \$16,500 from a customer for household management services. Subsequent to his written response and on-the-record interview, Winter, through his counsel, conceded to FINRA that the customer had paid him for household management services.

The suspension is in effect from May 20, 2013, through July 19, 2014. ([FINRA Case #2012031823901](#))

Scott Fitzgerald Wright (CRD #2087728, Registered Representative, San Clemente, California) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Wright failed to appear and testify at FINRA on-the-record interviews. The findings stated that FINRA began an investigation that led to the filing of a complaint as a result of an NASD Rule 3070 filing concerning a private securities transaction by a registered representative at a different firm. The Rule 3070 filing related to an offering. During the examination that resulted from the Rule 3070 filing, FINRA learned that Wright was also involved in the offering, and may have acted as a principal in the offering. FINRA sought information and documents from Wright concerning the offering, and he complied with the first request for documents and information. FINRA then requested that Wright appear and testify at on-the-record interviews concerning the FINRA examination relating to the offering and matters involved in the investigation. ([FINRA Case #2010024315802](#))

Individual Fined

William Robert Johnston (CRD #2024193, Registered Representative, Rochester, Minnesota) submitted a Letter of Acceptance, Waiver and Consent in which he was censured and fined \$10,000. Without admitting or denying the findings, Johnston consented to the described sanctions and to the entry of findings that he exercised discretion in the account of his member firm's customer, without obtaining the customer's prior written approval, and the firm never approved the account as discretionary. ([FINRA Case #2011029828101](#))

Decisions Issued

The Office of Hearing Officers (OHO) issued the following decisions, which have been appealed to or called for review by the NAC as of May 31, 2013. The NAC may increase, decrease, modify or reverse the findings and sanctions imposed in the decisions. Initial decisions where the time for appeal has not yet expired will be reported in future issues of FINRA Disciplinary and Other Actions.

Shashishekhar Doni (CRD #5095109, Associated Person, Forest Hills, New York) was fined \$5,000 and suspended from association with any FINRA member in any capacity for six months. The fine shall be due and payable if Doni should reenter the securities industry. The sanctions were based on findings that Doni took a member firm's confidential and proprietary computer code, without authorization, and installed the files on his home computer. The code Doni copied was part of a confidential and proprietary library of building block computer code at the firm. The findings stated that after becoming associated with another member firm, Doni transferred and used the stolen code on a programming project at his new firm. When Doni began his employment at his former firm, he agreed in writing not to disclose or use any confidential or proprietary information or material other than for the firm's benefit. When Doni joined the new firm, he agreed in writing not to use confidential or proprietary information from any prior employer. The findings also stated that after the stolen computer code was discovered on Doni's computer at the new firm, his supervisor explicitly told him not to delete the computer code files. Contrary to this explicit instruction, Doni deleted the code in an attempt to hide his misconduct. As a result of his taking the computer code, Doni pled guilty to felony criminal computer trespass and misdemeanor unauthorized use of a computer in violation of New York Penal Law.

The decision has been appealed to the NAC and the sanctions are not in effect pending the appeal. ([FINRA Case #2011027007901](#))

Alfred Pierrepont Reeves III (CRD #372836, Registered Principal, Hallandale, Florida) was barred from association with any FINRA member in any capacity and ordered to pay \$28,704.93, plus interest, in restitution to his former member firm. The sanctions were based on findings that after Reeves listed himself as his member firm's authorized billing

contact with the firm's clearing firm, the firm's president made proprietary trades in his IRA account. The clearing firm withheld a total of \$59,704.93 on commission on these trades, which it reported on the firm's statement of clearing charges. Because the firm did so few trades, the president did not regularly review the account until a month later. The findings stated that at Reeves' direction, the clearing firm paid the commissions to Reeves' consulting company because it had not been notified that he was no longer at the firm and should be removed as the designated billing contact. The findings also stated that Reeves immediately began withdrawing money from the account, transferring money to his ex-wife's account and paying personal expenses. After the firm's president accused Reeves of stealing the money, Reeves offered to repay the clearing firm on the conditions that it admit it had misappropriated the funds and paid them to Reeves in error and that he would not make any payments until he resolved all issues with FINRA. Reeves made these demands despite knowing he had no right to retain the money. The findings included that Reeves eventually repaid \$31,000 to the clearing firm and admitted he had not repaid the balance.

The decision has been appealed to the NAC and the sanctions are not in effect pending the appeal. ([FINRA Case #2011030192201](#))

Complaints Filed

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

Reginald George (CRD #5304658, Registered Representative, New York, New York) was named a respondent in a FINRA complaint alleging that he converted for his own purposes \$34,025 from a customer's account by causing wire transfers totaling \$29,025 to be made out of the account and electronic checks totaling \$5,000 to be drawn on the account. The complaint alleges that to facilitate his conversion of funds from the customer's account, George executed unauthorized sales of securities, totaling \$20,887.11 in proceeds, from the account and prepared, fabricated, and provided to his member firm LOAs bearing the customer's purported signature but signed by George, email LOAs purportedly from the customer that George altered, and one letter purporting to explain the reasons for the funds transferred out of the customer's account that was not true. The customer did not authorize or consent to any of the signed LOAs, email LOAs or letter and did not authorize or consent to George's signing his purported signature on any of the signed LOAs or the letter. The complaint also alleges that George, the representative on the customer's account, sent numerous emails to the customer about the firm or investment-related

business through George's personal email account without the firm's knowledge or approval, without providing copies of such communications to the firm, and in violation of the firm's written policies. The emails were communications that the firm was required to retain in conformance with applicable recordkeeping requirements, and George did not at any time provide or otherwise make available to his firm for its review or retention within its records a copy of the emails. George also did not retain or preserve copies of the emails within his own records or files and therefore could not produce them to FINRA in connection with the underlying examination. The complaint further alleges that George failed to timely respond to FINRA requests for information and documents. ([FINRA Case #2009019875002](#))

David Michael Gutman (CRD #2779960, Registered Principal, Huntington, New York) and Christopher John Tyndall (CRD #3156096, Registered Representative, Huntington Station, New York) were named respondents in a FINRA complaint alleging that they willfully engaged in a massive, serial insider trading scheme that generated more than \$9 million in profits by persons who traded in advance of the public announcements of corporate mergers and acquisitions. The complaint alleges that as an employee in his member firm's Conflicts Office, Gutman had access to and became aware of material, nonpublic confidential information concerning pending corporate merger or acquisition transactions. The complaint also alleges that Gutman provided Tyndall with the confidential, nonpublic information about each of the companies with which Gutman's firm was involved. Tyndall traded on the information and tipped customers and his parents, who also traded on the nonpublic information, and tipped others to trade on the information. Tyndall's customers made profits of more than \$1.7 million by trading in advance of news, and Tyndall earned commissions exceeding \$870,000 for himself and his firm. Both Gutman and Tyndall signed documents acknowledging that acting on inside information was unlawful. The complaint further alleges that FINRA sent Gutman's firm an inquiry letter in connection with suspicious trading ahead of the public announcement, providing a list of persons who traded in advance, and requested that the firm ask people whether they knew any of the listed persons. The list included Tyndall's name. Gutman falsely responded by telling his firm he did not know any of the listed individuals. During an on-the record interview, Tyndall testified about his relationship with Gutman. FINRA re-sent the inquiry letter to Gutman's firm, specifically asking the firm to show the list to Gutman. On this occasion, Gutman admitted to his firm that he knew Tyndall. In addition, the complaint alleges that Gutman and Tyndall made, or caused to be made, material misstatements or omitted material facts in connection with the purchase or sale of securities—in particular, the material, nonpublic information about the tipped securities. ([FINRA Case #2012033227402](#))

Steven Foreman Kahn ((CRD #1001362, Registered Principal, Buffalo Grove, Illinois) was named a respondent in a FINRA complaint alleging that he effected trades in the securities account of a deceased customer without the customer's authorization or consent and in the absence of written or oral authorization from the customer, her estate representative,

or any person with authority over the account. The complaint alleges that in fact, the customer had died approximately two years prior to Kahn becoming the registered representative of record for the account. The complaint also alleges that Kahn's member firm had informed him that his production was low, and he needed to take steps to develop his business and profitability. Shortly after being warned about his low production, Kahn effected the transactions in the customer's account. The complaint further alleges that in response to a customer's complaint concerning being charged excessive commissions while Kahn was the registered representative of record, Kahn agreed to refund a percentage of the commissions that the customer had paid over the prior five years. Kahn withdrew \$7,005.68 from his personal checking account and tendered the funds to the customer in settlement of the complaint. Kahn did not inform his firm of the customer's complaint, nor did he obtain his firm's approval prior to payment to the customer of the settlement amount. ([FINRA Case #2010024957001](#))

Jose Jesus Martinez Jr. (CRD #5590432, Registered Representative, Glendale, California) was named a respondent in a FINRA complaint alleging that during a visit to the bank branch office where he was the manager, a customer left his debit card, which had the personal identification number written on the back. Martinez did not return the card to the customer and used the card on multiple occasions to withdraw a total of at least \$1,500 in cash for personal expenses, without the customer's knowledge or authorization. The bank reimbursed the customer by posting credits to his account. The complaint alleges that Martinez failed to respond to FINRA requests for information regarding the alleged conversion. ([FINRA Case #2012034384101](#))

Richard Allen McGuire (CRD #4637028, Registered Representative, Bay Shore, New York) was named a respondent in a FINRA complaint alleging that he converted a total of approximately \$95,000 from a former customer by misrepresenting that purported investments of \$60,000 and \$35,000 were for the purchase of products similar to annuities and issued by a company he owned and controlled. The checks the customer provided were deposited in a bank account that McGuire controlled, and McGuire used them to pay for personal expenses and to benefit his unapproved outside business. The complaint alleges that when the customer asked to withdraw a portion of her \$95,000 investment, McGuire declined to do so, advising her that a withdrawal would result in the assessment of severe financial penalties. The complaint also alleges that in response to FINRA inquiries, McGuire provided copies of loan agreements, in which he forged or caused to be forged the customer's signature, reflecting the customer's purported loan of \$95,000 to McGuire's business. The customer never made any loans to McGuire or his company. The complaint further alleges that McGuire failed to notify his member firms of his activities related to outside businesses, including his company. In addition, the complaint alleges that McGuire failed to make written notification to his member firms of securities accounts he maintained, one in his own name and one in his company's name, at other brokerage firms; and also failed to notify the broker-dealers where he maintained the accounts of his

association with member firms. Moreover, the complaint alleges that McGuire willfully failed to disclose unsatisfied state and federal tax liens on his Form U4. ([FINRA Case #2011027350301](#))

Kimberly Ann Springsteen-Abbott (CRD #1367633, Registered Principal, Holiday, Florida) was named a respondent in a FINRA complaint alleging that she directed the misuse of investor funds to pay for various credit card charges that were not related to legitimate business purposes of the funds, which totaled at least \$344,798.79. The complaint alleges that the charges relating to the misused investor funds consisted of personal expenses for Springsteen-Abbott and another individual. Some of the charges have been refunded. The complaint also alleges that in connection with a FINRA examination, Springsteen-Abbott and her member firm provided a false and back-dated document in connection with the documentation provided regarding the credit card charges. By creating the false and back-dated documentation, Springsteen-Abbott caused her firm to maintain inaccurate books and records. ([FINRA Case #2011025675501](#))

James Glenn Tallant (CRD #1726582, Registered Representative, Abilene, Texas) was named a respondent in a FINRA complaint alleging that he exercised discretion in the accounts of his member firm's customer without the customer's written authorization or the firm's acceptance of the accounts as discretionary. The complaint alleges that Tallant exercised actual control over the customer's accounts by engaging in discretionary trading without written authorization. Tallant also exercised de facto control because the customer routinely followed Tallant's advice and was unable to evaluate Tallant's recommendations and to exercise independent judgment. Tallant's trading in each of the customer's accounts was unsuitable and excessive in size and frequency, in view of the customer's financial situation and needs. The complaint also alleges that the number of transactions in the accounts was excessive in light of the customer's investment objectives and resulted in turnover and cost/commission-equity ratios exceeding those that create a presumption of churning. Tallant executed or caused their execution by means of the instrumentalities of interstate commerce by executing the securities transactions on a national securities exchange. The complaint further alleges that Tallant executed or caused the execution of the securities transactions with intent to defraud, in that he knew, or was reckless in failing to recognize, that the trading in the accounts resulted in substantial commission income for him, but could not reasonably be expected to benefit the customer. By executing the transactions in the customer's accounts, Tallant placed his own interests above the customer's interests. As a result of the foregoing conduct, Tallant willfully violated Section 10(b) of the Exchange Act, SEC Rule 10b-5 promulgated thereunder, and FINRA Rules 2020 and 2010. ([FINRA Case #2010024050501](#))

Thornes & Associates, Inc. Investment Securities (CRD #40868, Redlands, California) and John Thomas Thornes (CRD #2097878, Registered Principal, Redlands, California) were named respondents in a FINRA complaint alleging that the firm, by and through Thornes as its president, and Thornes individually, and as broker of record, converted and

improperly used \$1,701,443.90 belonging to a trust that was established to provide care for a senior citizen suffering from Alzheimer's, for purposes that were inconsistent with Thornes' duties as trustee of the trust, for the benefit or use of Thornes, the firm, Thornes' friend, or other third parties on the friend's behalf. The complaint alleges that the firm, by and through Thornes and Thornes individually, and as broker of record, recommended, controlled and caused Thornes' mother, as trustee of a trust established to provide educational scholarships to high school graduates attending college, to allow Thornes to convert \$2,488,327 belonging to the trust to his own use, and allow him to improperly use customer funds of the trust for purposes that were inconsistent with the terms and purposes of the trust, for the benefit or use by Thornes, the firm, his friends, or other third parties on behalf of one of his friends. Thornes falsely characterized the transfers of funds from the accounts of both trusts as loans. None of the funds have been repaid, and Thornes did not have any reasonable expectation that the funds would be repaid. The complaint also alleges that Thornes did not act in the best interest of the trust that was established to provide care for the senior citizen. Rather, Thornes placed his own interests and the interests of his friend, and other third parties on his friend's behalf, ahead of the trust by utilizing high margin and causing the trust brokerage account to make risky unsecured and undocumented fictitious loans to his personal friends. Thornes' actions enabled him to use, control and dissipate the assets of the senior citizen's trust in a manner that harmed the trust. The complaint further alleges that the firm, acting through Thornes, and Thornes individually, made and effected unsuitable recommendations in both trust brokerage accounts. Thornes recommended that both trust brokerage accounts repeatedly use high levels of margin and liquidate conservative investments to make unsecured and undocumented loans that were inconsistent with the risk level and investment objectives of the trusts. In addition, the complaint alleges that Thornes was the firm's anti-money laundering compliance officer (AMLCO) and was required to monitor for potentially suspicious activities and red flags. In the accounts of some customers in which Thornes was the broker of record, there were multiple red flags and third party wire transfers, in which the firm, by and through Thornes, and Thornes individually, failed to investigate to ensure compliance with the firm's obligations to comply with AML requirements and the firm's procedures. The firm also failed to investigate Thornes' participation in suspicious activity in his customer accounts that were the source of the red flags. Moreover, the complaint alleges that the firm, by and through Thornes, and Thornes individually, failed to implement policies and procedures that could have been reasonably expected to detect and cause the reporting of suspicious activity or otherwise reasonably designed to achieve compliance with the Bank Secrecy Act and implementing regulations. Furthermore, the complaint alleges that Thornes acted as the trustee for the senior citizen's trust and received compensation while also serving as the registered representative of the trust's brokerage account. The complaint also alleges that Thornes, while registered with the firm, willfully failed to amend his Form U4 to disclose material information—namely, that he engaged in other business activity as a trustee of the senior citizen's trust. ([FINRA Case #2012030567401](#))

Viewpoint Securities, LLC (CRD #104226, San Diego, California) and Seth Andrew Leyton (CRD #2138891, Registered Principal, San Diego, California) were named respondents in a FINRA complaint alleging that Leyton and the firm offered and sold to public customers collateralized mortgage obligations (CMOs) and engaged in the fraudulent sale of this product to customers. The complaint alleges that a limited liability company, its CEO, and an individual involved with the CEO in the business of the company (collectively, the conspirators), engaged in a fraudulent scheme through which they obtained possession and control of CMOs owned by unwitting investors and attempted to misappropriate income streams generated by the CMOs. The complaint also alleges that the firm and Leyton knew of the conspirators' scheme, or should have known of it, including that the promises of monetization at the levels represented were false, and that the conspirators were engaged in a fraudulent scheme to steal CMOs and their revenue streams, and that no monetizations occurred. Despite this, the firm and Leyton took no meaningful action to prevent the conspirators' activities from harming the firm's customers or others, or to terminate the conspirators' activity or relationship with the firm. In return for compensation on these CMO sales and cash payments to Leyton's controlled bank account, Leyton and the firm substantially assisted the conspirators' scheme, providing the conspirators with both a platform to effect their fraudulent scheme and the appearance of legitimacy. The firm and Leyton earned more than \$1 million solely from its business relationship with the conspirators. The complaint further alleges that the firm's and Leyton's substantial assistance to the conspirators included allowing the company to open and maintain accounts at the firm, thereby enabling the company to receive CMOs from third parties, including the firm's customers. The firm and Leyton prepared letters on behalf of the conspirators, which were issued to third parties; the letters were materially misleading since the face value was far in excess of the true market value of the CMOs. The firm and Leyton approved a CMO sale transaction where a firm customer was permitted to purchase a CMO at an artificial price much lower than its true market value, in order to accommodate the conspirator's request. The firm and Leyton knowingly or recklessly ignored the red flags or suspicious events associated with the conspirators' scheme that should have alerted them to the improper conduct. Based upon the foregoing, the firm and Leyton aided and abetted the conspirators' fraudulent scheme. In addition, the complaint alleges that a customer opened an account at the firm to purchase a CMO that an individual claimed he would be able to monetize in order to secure multi-million dollar financing to fund the customer's project. Leyton was aware that the customer was unsophisticated in investments and lacked any real understanding of CMOs. Leyton recommended that the customer purchase a CMO, which the customer funded with \$1.1 million, and Leyton purchased the CMO on the customer's behalf. The firm and Leyton did not charge the customer a markup or a commission. Leyton inaccurately marked the orders as unsolicited. During the sale of the CMO, the firm and Leyton omitted to inform the customer of material facts necessary to prevent the statements made, in light of the circumstances under which they were made, from being misleading. Moreover, the complaint alleges that in consideration for an individual referring the customer to the

firm and Leyton, they entered into a prearranged transaction whereby Leyton interposed shares for the individual (through his entity) between the firm and the best available market before executing the customer's transaction. The firm and Leyton did not inform the customer at the time of the transaction that his transaction was interposed, that he had been charged an excessive markup on the transaction, or of pertaining relevant facts. Leyton willfully omitted to inform the customer of material facts in regard to the CMO transaction. Furthermore, the complaint alleges that Leyton provided false and misleading information to FINRA during his testimony and in his signed written statements. During a FINRA on-the-record testimony, Leyton, through his legal counsel, informed FINRA that he would not respond to any of FINRA's further questions, impeding its investigation. The complaint also alleges that the firm's written AML policies and procedures required Leyton to monitor for potentially suspicious activity and red flags, investigate potentially suspicious activity and report suspicious activity by filing a suspicious activity report (SAR), as appropriate. The firm, acting through Leyton, failed to enforce its written AML program to ensure compliance with the Bank Secrecy Act. The firm and Leyton did not identify and investigate the company's CMO transactions, even though many red flags identified in the firm's written AML procedures were present. Despite being placed on repeated notice of potentially fraudulent CMO transactions, Leyton and the firm never considered whether to file a SAR related to any suspicious trading activity, even when customers complained that the company improperly retained possession over a customer's CMOs and money, or when the firm and Leyton knew the company had made misrepresentations about its CMO transactions. The complaint further alleges that the firm, through Leyton, failed to establish and maintain a supervisory system, including WSPs, reasonably designed to ensure compliance with federal laws and FINRA and NASD rules in the offer or sale of CMOs. The firm, acting through Leyton, failed to supervise his activities in the offer or sale of CMOs, and his other activities. In addition, the complaint alleges that the firm, acting through Leyton, did not enforce procedures for the supervisory review of email communications; specifically, the firm failed to review Leyton's incoming and outgoing email. Moreover, the complaint alleges that Leyton solely operated and supervised the firm's CMO business, functioning as both the general securities representative offering and selling the CMOs, and the general securities principal overseeing and approving these same CMO sales. Leyton was a producing manager and principal of the firm. The firm and Leyton failed to assign anyone to supervise Leyton's customer account activity and failed to enforce a supervisory system and procedures regarding the designation of a supervisor for Leyton and heightened supervision of producing managers. ([FINRA Case #2011028122901](#))

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

A.B. Watley Direct, Inc. (CRD #18663)
 New York, New York
 (May 7, 2013)
 FINRA Case #200501121401

Brimberg & Co. (CRD #1315)
 New York, New York
 (May 11, 2013)
 FINRA Case #2011025773503

Goldman, Lass Securities (CRD #2029)
 Yonkers, New York
 (May 29, 2013)
 FINRA Case #2009019859801

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.)

Aletheia Securities, Inc. (CRD #44784)
 Santa Monica, California
 (May 2, 2013)

Aletheia Securities, Inc. (CRD #44784)
 Santa Monica, California
 (May 8, 2013)

Aletheia Securities, Inc. (CRD #44784)
 Santa Monica, California
 (May 29, 2013)

HLM Securities, Inc. (CRD #133216)
 Chicago, Illinois
 (May 2, 2013)

HLM Securities, Inc. (CRD #133216)
 Chicago, Illinois
 (May 29, 2013)

1792 Securities, LLC (CRD #146048)
 Greenville, South Carolina
 (May 29, 2013)

Trinity Distributors LLC (CRD #104084)
 Mequon, Wisconsin
 (May 29, 2013)

Westor Capital Group, Inc. (CRD #103823)
 Herkimer, New York
 (May 29, 2013)

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

Obsidian Financial Group, LLC (CRD #104255)
 Woodbury, New York
 (May 2, 2013)
 FINRA Arbitration Case #11-00072

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.)

Britney L. Bergum (CRD #5630238)
 Middleton, Wisconsin
 (May 17, 2013)
 FINRA Case #2012033741101

Brian Andrew Bond (CRD #2153668)
 Syosset, New York
 (May 22, 2013)
 FINRA Case #2012032771401

Keith John Carson (CRD #1317931)
Orlando, Florida
(May 10, 2013)
FINRA Case #2012032587601

Howard Lawrence Dewey Jr. (CRD #3068842)
Atlanta, Georgia
(May 31, 2013)
FINRA Case #2012033604001

Gregory Evan Goldstein (CRD #2412387)
Stevenson Ranch, California
(May 15, 2013)
FINRA Case #2012030210101

Brian Michael Harbour (CRD #4691782)
Glenpool, Oklahoma
(May 14, 2013)
FINRA Case #2012034040601

Joseph James Hennessy (CRD #1380254)
Western Springs, Illinois
(May 3, 2013)
FINRA Case #2012033110701

Sabrina Marie Kadets (CRD #4929590)
Houston, Texas
(May 28, 2013)
FINRA Case #2012033736801

Himanshoo V. Kotak (CRD #1769981)
Edison, New Jersey
(May 10, 2013)
FINRA Case #2012032457201

Eugene McFarland Jr. (CRD #5969465)
Flemington, New Jersey
(May 28, 2013)
FINRA Case #2012031251101

Frederick Vincent McMenimen III (CRD #2112400)
Exeter, New Hampshire
(May 16, 2013)
FINRA Case #2011029738101

Francis Patrick Murphy Jr. (CRD #1184139)
Westerly, Rhode Island
(May 31, 2013)
FINRA Case #2012033810301

Patrick Paul Murray (CRD #2420382)
North Creek, New York
(May 30, 2013)
FINRA Case #2012032490501

Michael Louis O'Brien (CRD #1049397)
Hedgesville, West Virginia
(May 3, 2013)
FINRA Case #2011030800301

Michael Henry Ohlfs (CRD #2663810)
Parker, Colorado
(May 2, 2013)
FINRA Case #2011029016801

Garth Terrelonge (CRD #5604246)
Philadelphia, Pennsylvania
(May 22, 2013)
FINRA Case #2012034264701

Travis Anthony Wetzel (CRD #5072345)
Frederick, Maryland
(May 9, 2013)
FINRA Case #2012034423501

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

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

Albert Han (CRD #1984783)
 Rancho Palos Verdes, California
 (May 9, 2013)
 FINRA Case #2010025271001

Mark David Hill (CRD #1056054)
 Marietta, Georgia
 (May 3, 2013)
 FINRA Case #2011027280601

Jay Clint Tomlinson (CRD #2680269)
 Weehawken, New Jersey
 (May 14, 2013 – May 15, 2013)
 FINRA Case #2011025773503

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.)

Lawrence Joseph Alfano (CRD #2701389)
 Kings Park, New York
 (May 6, 2013)
 FINRA Case #2012031047101

Steven Alfred Cinelli (CRD #3240343)
 Saratoga, California
 (March 7, 2013 – May 10, 2013)
 FINRA Case #2011028444401

Guido Vito Colucci (CRD #6100192)
 Staten Island, New York
 (May 6, 2013)
 FINRA Case #2012033511801

Eric Anthony Foster (CRD #3267556)
 Suffern, New York
 (May 2, 2013)
 FINRA Case #2012032826201

Jesus Abel Garcia II (CRD #5411061)
 Salem, Oregon
 (May 6, 2013)
 FINRA Case #2012034457101

Charles McMillan Graham (CRD #227058)
 Centerville, Ohio
 (May 10, 2013)
 FINRA Case #2012031119101

Carlton Michael Hayden (CRD #1922707)
 Amado, Arizona
 (May 6, 2013)
 FINRA Case #2011029137401

Patricia Michelle Heaton (CRD #2927338)
 Aliso Viejo, California
 (May 6, 2013)
 FINRA Case #2012034672501

Michael Thomas Linsinbigler (CRD #4072020)
 Delray Beach, Florida
 (May 6, 2013)
 FINRA Case #2012031918501

Johnson Chacko Meloottu (CRD #4834660)
 Hauppauge, New York
 (May 13, 2013)
 FINRA Case #2012034344401

David James Mura (CRD #2238675)
 Victor, New York
 (May 31, 2013)
 FINRA Case #2012034094001

Jeffrey Alan Smith (CRD #428001)
Bedminster, New Jersey
(May 9, 2013)
FINRA Case #2012034794801

Burim Turkaj (CRD #5091666)
Vero Beach, Florida
(May 13, 2013)
FINRA Case #2013036117401

George Alexander Watson (CRD #4878322)
Canton, Georgia
(May 13, 2013)
FINRA Case #2012035116601

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

William Blake Bentley (CRD #4766039)
Dallas, Texas
(May 1, 2012 – May 2, 2013)
FINRA Arbitration Case #11-00856

Harry J. Davis (CRD #5583513)
Boston, Massachusetts
(April 26, 2013 – May 3, 2013)
FINRA Arbitration Case #12-01738

Dale Keith Hall (CRD #706704)
Greeley, Colorado
(September 7, 2012 – May 21, 2013)
FINRA Arbitration Case #10-02249

Michael George Hegyan Jr. (CRD #1886283)
Chicago, Illinois
(October 10, 2011 – May 9, 2013)
FINRA Arbitration Case #11-00970

Kathleen Louise Heshelow (CRD #4909103)
Seminole, Florida
(September 7, 2012 – May 21, 2013)
FINRA Arbitration Case #10-02249

**Lawrence William Lambert Sr. (CRD
#301059)**
Charlottesville, Virginia
(September 7, 2012 – May 21, 2013)
FINRA Arbitration Case #10-02249

Kent Waldene Pridey (CRD #1223841)
Estes Park, Colorado
(September 7, 2012 – May 21, 2013)
FINRA Arbitration Case #10-02249

Joseph Giuseppe Scali Jr. (CRD #2564129)
Garden City, New York
(May 2, 2013)
FINRA Arbitration Case #11-00072

FINRA Fines Three Firms \$900,000 for Inadequate Anti-Money Laundering Programs

Four Firm Executives Fined and Suspended

The Financial Industry Regulatory Authority (FINRA) announced that it has fined three firms a total of \$900,000 for failing to establish and implement adequate anti-money laundering (AML) programs and other supervisory systems to detect suspicious transactions. FINRA also fined and suspended four executives involved. FINRA imposed the following sanctions.

- [Atlas One Financial Group, LLC](#) – Miami, Florida – fined \$350,000; Napoleon Arturo Aponte, former Chief Compliance Officer and AML Compliance Officer, fined \$25,000 joint and severally with the firm, and suspended for three months in a principal capacity
- [Firstrade Securities, Inc.](#) – Flushing, New York – fined \$300,000
- [World Trade Financial Corporation \(WTF\)](#) – San Diego, CA – fined \$250,000; President and Owner Rodney Michel fined \$35,000 and suspended in all capacities except as a financial operations principal for four months; Chief Compliance Officer Frank Brickell fined \$40,000 and suspended from association in all capacities for nine months; trade desk supervisor and minority owner Jason Adams fined \$5,000 and suspended for three months in a principal capacity

Brad Bennett, FINRA Executive Vice President and Chief of Enforcement, said, “Today’s actions reinforce FINRA’s continued focus on firms’ ability to identify and respond to potential misuse and abuse of the markets. Firms must have adequate AML and supervisory systems in place to detect and report suspicious transactions.”

FINRA found that between February 2007 through May 2011, Atlas One failed to identify suspicious account activity or did not adequately investigate numerous AML “red flags.” For example, in 2007, the United States Department of Justice (DOJ) froze six Atlas One accounts that were all controlled by one customer in connection with a money laundering scheme. Even though the accounts listed the same mailing address in San Jose, Costa Rica, and an email address for another Atlas One customer as contact information for the account and the other customer’s information had been utilized as contact information for the frozen accounts, Atlas One failed to perform any additional scrutiny of the accounts that had not been part of DOJ’s action. FINRA also found that certain customers’ accounts engaged in a pattern of activity consisting of moving millions of dollars through the accounts while conducting minimal-to-no securities transactions. Atlas One’s AML program required Aponte to monitor for potentially suspicious activity and AML red flags, investigate suspicious activity and report suspicious activity by filing a suspicious activity report (SAR), when necessary, which he failed to do.

In a separate case, FINRA found that Firsttrade, an online trading firm catering to the Chinese community, failed to implement an adequate AML program to detect and report suspicious transactions, including potential manipulative trading. Many of the suspicious transactions involved Chinese issuer stocks and some of the most suspicious activity in customer accounts was apparent pre-arranged trades of Chinese issuer stock done in related accounts. (See FINRA [Investor Alert](#) regarding China stocks.)

In the third case, FINRA found that WTF, Brickell, Michel, and Adams failed to create and enforce a supervisory system and written supervisory procedures to monitor for unlawful transactions in unregistered penny stocks. Between March 2009 and August 2011, WTF bought and sold more than 27.5 billion shares of 12 penny stock issues on behalf of one customer, Justin Keener, generating approximately \$61 million in investor proceeds. In October 2012, FINRA barred Keener following a disciplinary hearing for his failure to provide FINRA with documents and information after he purchased an interest in a FINRA member clearing firm. Despite the fact that the securities traded were not properly registered and were not eligible for an exemption to registration, WTF and Brickell executed the transactions. The business generated by Keener's transactions represented the majority of WTF's business and revenue. WTF and Michel failed to supervise Brickell, who was acting as a producing manager when making the stock liquidations at issue. Also, WTF, acting through Brickell, failed to have a program reasonably designed to monitor for and detect and report suspicious activity, as required by the Bank Secrecy Act.

In concluding these settlements, Atlas One, Firsttrade, WTF, Aponte, Michel, Brickell and Adams neither admitted nor denied the charges, but consented to the entry of FINRA's findings.

Aponte's suspension is in effect from June 3, 2013, through September 2, 2013. Michel's suspension is in effect from April 1, 2013, through July 31, 2013. Brickell's suspension is in effect from August 9, 2013, through May 8, 2014. Adams' suspension is in effect from May 16, 2014, through August 15, 2014.

LPL to Pay \$9 Million for Systemic Email Failures and for Making Misstatements to FINRA

LPL Fined \$7.5 Million and Ordered to Establish \$1.5 Million Fund to Compensate Affected Customers

The Financial Industry Regulatory Authority (FINRA) announced that it fined LPL Financial LLC (LPL) \$7.5 million for 35 separate, significant email system failures, which prevented LPL from accessing hundreds of millions of emails and reviewing tens of millions of other emails. Additionally, LPL made material misstatements to FINRA during its investigation of the firm's email failures. LPL was also ordered to establish a \$1.5 million fund to compensate brokerage customer claimants potentially affected by its failure to produce email.

As LPL rapidly grew its business, the firm failed to devote sufficient resources to update its email systems, which became increasingly complex and unwieldy for LPL to manage and monitor effectively. The firm was well aware of its email systems failures and the overwhelming complexity of its systems. Consequently, FINRA found that from 2007 to 2013, LPL's email review and retention systems failed at least 35 times, leaving the firm unable to meet its obligations to capture email, supervise its representatives and respond to regulatory requests. Because of LPL's numerous deficiencies in retaining and surveilling emails, it failed to produce all requested email to certain federal and state regulators, and FINRA, and also likely failed to produce all emails to certain private litigants and customers in arbitration proceedings, as required.

Brad Bennett, Executive Vice President and Chief of Enforcement, said, "As LPL grew, it did not expand its compliance and technology infrastructure; and as a result, LPL failed in its responsibility to provide complete responses to regulatory and other requests for emails. This case sends a strong message to firms to make sure your business does not outgrow your compliance systems."

Some examples of LPL's 35 email failures include the following.

- Over a four-year period, LPL failed to supervise 28 million "doing business as" (DBA) emails sent and received by thousands of representatives who were operating as independent contractors.
- LPL failed to maintain access to hundreds of millions of emails during a transition to a less expensive email archive, and 80 million of those emails became corrupted.
- For seven years, LPL failed to keep and review 3.5 million Bloomberg messages.
- LPL failed to archive emails sent to customers through third-party email-based advertising platforms.

In addition, LPL made material misstatements to FINRA concerning its failure to supervise 28 million DBA emails. In a January 2012 letter to FINRA, LPL inaccurately stated that the issue had been discovered in June 2011 even though certain LPL personnel had information that would have uncovered the issue as early as 2008. Moreover, the letter stated that there weren't any "red flags" suggesting any issues with DBA email accounts when, in fact, there were numerous red flags related to the supervision of DBA emails that were known to many LPL employees.

In addition, LPL likely failed to provide emails to certain arbitration claimants and private litigants. LPL will notify eligible claimants by letter within 60 days from the date of the settlement and the firm will deposit \$1.5 million into a fund to pay customer claimants for its potential discovery failures. Customer claimants who brought arbitrations or litigations against LPL as of Jan. 1, 2007, and which were closed by Dec. 17, 2012, will receive, upon request, emails that the firm failed to provide them. Claimants will also have a choice of whether to accept a standard payment of \$3,000 from LPL or have a fund administrator determine the amount, if any, that the claimant should receive depending on the particular facts and circumstances of that individual case. Maximum payment in cases decided by the fund administrator cannot exceed \$20,000. If the total payments to claimants exceed \$1.5 million, LPL will pay the additional amount.

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