Disciplinary and Other FINRA Actions

Reported for July 2011

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

Firm Expelled, Individual Sanctioned

Prestige Financial Center, Inc. (CRD #30407, New York, New York) and Lawrence Gary Kirshbaum (CRD #270856, Registered Principal, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was expelled from FINRA membership and Kirshbaum was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, the firm and Kirshbaum consented to the described sanctions and to the entry of findings that the firm, acting through Kirshbaum and at least one other firm principal, were involved in a fraudulent trading scheme through which the then-Chief Compliance Officer (CCO) and head trader for the firm concealed improper markups and denied customers best execution. The findings stated that as part of this scheme, the CCO falsified order tickets and created inaccurate trade confirmations, and the hidden profits were captured in a firm account Kirshbaum and another firm principal controlled; some of the profits were then shared with the CCO and another individual. The findings also stated that the trading scheme took advantage of customers placing large orders to buy or sell equities. The findings also included that rather than effecting the trades in the customers' accounts, the CCO placed the order in a firm proprietary account where he would increase or decrease the price per share for the securities purchased or sold before allocating the shares or proceeds to the customers' accounts; this improper price change was not disclosed to, or authorized by, the customers, and this fraudulent trading scheme generated approximately $1.3 million in profits for the firm's proprietary accounts.

FINRA found that Kirshbaum was aware of and permitted the trading; a firm account Kirshbaum and another firm principal controlled retained 47 percent of the profits from the scheme. FINRA also found that in furtherance of the fraudulent trading scheme, the CCO entered false information on the corresponding order tickets regarding the share price and the time the customer order ticket was received, entered and executed; the corresponding trade confirmations inaccurately reflected the price, markup and/or commission charged and the order capacity. In addition, FINRA determined that the firm, acting through Kirshbaum, entered into an agreement to sell the personal, confidential and non-public information of thousands of customers to an unaffiliated member firm in exchange for transaction-based compensation from any future trading activity in those accounts. Moreover, FINRA found that in connection with that agreement, Kirshbaum provided the unaffiliated member firm with the name, account number, value and holdings on spreadsheets via electronic mail. Furthermore, FINRA found that Kirshbaum

granted certain representatives of that firm live access to the firm's computer systems, including access to systems provided by the firm's clearing firm, which provided access to other non-public confidential customer information such as Social Security numbers, dates of birth and home addresses.

The findings also stated that the firm and Kirshbaum did not provide any of the customers with the required notice or opportunity to opt out of such disclosure before the firm disclosed the information, as Securities and Exchange Commission (SEC) Regulation S-P requires. The findings also included that the firm, acting through Kirshbaum, failed to establish and maintain a supervisory system, and establish, maintain and enforce written supervisory procedures to supervise each registered person's activities that are reasonably designed to achieve compliance with the applicable rules and regulations regarding interpositioning, front-running, supervisory branch office inspections, supervisory controls, annual compliance meeting, maintenance and periodic review of electronic communications, NASD Rule 3012 annual report to senior management, review and retention of electronic and other correspondence, SEC Regulation S-P, anti-money laundering (AML), Uniform Application for Securities Industry Registration or Transfer (Form U4) and Uniform Termination Notice for Securities Industry Registration (Form U5) amendments, and NASD Rule 3070 reporting.

FINRA found that the firm failed to enforce its procedures requiring review of its registered representatives' written and electronic correspondence relating to the firm's securities business. In addition, FINRA determined that the firm failed to establish, maintain and enforce a system of supervisory control policies and procedures that tested and verified that its supervisory procedures were reasonably designed with respect to the activities of the firm and its registered representatives and associated persons to achieve compliance with applicable securities laws and regulations, and created additional or amended supervisory procedures where testing and verification identified such a need. Moreover, FINRA found that the firm failed to enforce the written supervisory control policies and procedures it has with respect to review and supervision of the customer account activity conducted by the firm's branch office managers, review and monitoring of customer changes of address and the validation of such changes, and review and monitoring of customer changes of investment objectives and the validation of such changes. Furthermore, FINRA found that the firm failed to establish written supervisory control policies and procedures reasonably designed to provide heightened supervision over the activities of each producing manager responsible for generating 20 percent or more of the revenue of the business units supervised by that producing manager's supervisor; as a result, the firm did not determine whether it had any such producing managers and, to the extent that it did, subject those managers to heightened supervision.

The findings also stated that the firm, acting through one of its designated principals, falsely certified that it had the requisite processes in place and that those processes were evidenced in a report review by its Chief Executive Officer (CEO), CCO and other officers,

and the firm failed to file an annual certification one year. The findings also included that the firm failed to implement a reasonably designed AML compliance program (AMLCP). FINRA found that although the firm had developed an AMLCP, it failed to implement policies and procedures to detect and cause the reporting of suspicious activity and transactions; implement policies, procedures and internal controls reasonably designed to obtain and verify necessary customer information through its Customer Identification Program (CIP); and provide relevant training for firm employees—the firm failed to conduct independent tests of its AMLCP for several years. FINRA also found that the firm, acting through Kirshbaum and another firm principal, failed to implement policies and procedures reasonably designed to ensure compliance with the Bank Secrecy Act by failing to enforce its procedures requiring the firm to review all Section 314(a) requests it received from the U.S. Department of the Treasury's Financial Crimes Enforcement Network (FinCEN); as a result, the firm failed to review such requests. In addition, FINRA determined that Kirshbaum and another principal were responsible for accessing the system to review the FinCEN messages but failed to do so. Moreover, FINRA found that the firm permitted certain registered representatives to use personal email accounts for business-related communications, but failed to retain those messages. Furthermore, FINRA found that the firm failed to maintain and preserve all of its business-related electronic communications as required by Rule 17a-4 of the Securities Exchange Act of 1934, and failed to maintain copies of all of its registered representatives' written business communications. The findings also stated that the firm failed to file summary and statistical information for customer complaints by the 15th day of the month following the calendar quarter in which the firm received them. The findings also included that the customer complaints were not disclosed, or not timely disclosed, on the subject registered representative's Form U4 or U5, as applicable. FINRA found that the firm failed to provide some of the information FINRA requested concerning trading and other matters. (**FINRA Case #2009016405902**)

Firms and Individuals Sanctioned

Garden State Securities, Inc. (CRD #10083, Red Bank, New Jersey) and Kevin John DeRosa (CRD #2314895, Registered Principal, Toms River, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and ordered to pay $300,000 in restitution, jointly and severally with DeRosa, to investors. FINRA did not impose a fine against the firm after it considered, among other things, the firm's revenues and financial resources. DeRosa was fined $25,000, suspended from association with any FINRA member in any capacity for 20 business days, and suspended from association with any FINRA member in any principal capacity for two months.

Without admitting or denying the findings, the firm and DeRosa consented to the described sanctions and to the entry of findings that the firm failed to ensure that it established, maintained and enforced a supervisory system and written supervisory procedures (WSPs) reasonably designed to achieve compliance with the rules and regulations concerning

private offering solicitations. The findings stated that the firm's procedures were deficient in that they failed to specify, among other things, who at the firm was responsible for performing due diligence, what activities by firm personnel were required to satisfy the due diligence requirement, how due diligence was to be documented, who at the firm was responsible for reviewing and approving the due diligence that was performed and authorizing the sale of the securities, and who was to perform ongoing supervision of the private offerings once customer solicitations commenced. The findings also stated that as a result of the firm's deficient supervisory system and WSPs, the firm failed to conduct adequate due diligence on private placement offerings. The findings also included that the firm's WSPs required due diligence to be conducted on every private placement it offered, and required that such review had to be documented; the firm failed to enforce those provisions with respect to an offering.

FINRA found that had the firm conducted adequate due diligence, it reasonably should have known that the company had defaulted on its earlier notes offerings and that there was a misrepresentation in the private placement memorandum (PPM) with respect to principal and interest payments to investors in the earlier offerings. FINRA also found that the firm failed to take reasonable steps to ensure that it timely learned of the missed payments on the earlier notes offerings and disclosed them to prospective investors in the notes. Moreover, FINRA found that due to the firm's lack of due diligence, DeRosa sold notes issued to customers, and in connection with those sales, the firm and DeRosa mischaracterized and/or negligently omitted certain material facts provided to investors. Furthermore, FINRA found that DeRosa sold $833,000 of the notes to customers and generated approximately $37,485 in gross commissions from the sales of the notes. The findings also stated that the firm, through DeRosa and another registered representative, solicited customers to invest in another company's stock but failed to conduct adequate due diligence. The findings also included that the owner of an investment banking firm represented that the customers' funds would be wired to a client trust account at a bank and then forwarded to an escrow account, which a third party would control, before being invested; the firm did not take any steps to verify this claim before wiring the customer funds to the account.

FINRA found that that no one at the firm verified the existence of the client trust and escrow accounts, and, after the funds were wired, no one requested or received a bank account statement to verify the receipt and location of the funds; the firm failed to question why the wire instructions failed to reference the client trust account in the bank account title section on the form, but instead referenced the investment banking firm. FINRA also found that instead of directing the customers' money into the escrow account, the owner of the investment banking firm kept the funds in bank accounts he controlled and used the funds for his own benefit.

In addition, FINRA determined that in connection with his sales of the company's stock, DeRosa disseminated to prospective investors a presentation he had received from the owner of the investment banking company, which summarized the offering. Moreover,

FINRA determined that the presentation constituted sales literature but did not comply with the content standards applicable to communications with the public and sales literature. Furthermore, FINRA found that the presentation failed to provide a fair and balanced treatment of risks and potential benefits, contained unwarranted or exaggerated claims, contained predictions of performance and failed to prominently disclose the firm's name, failed to reflect any relationship between the firm and the non-FINRA member entities involved in the offering, and failed to reflect which product or services the firm was offering.

The suspension in any capacity was in effect from May 23, 2011, through June 20, 2011. The suspension in any principal capacity is in effect from June 21, 2011, through August 20, 2011. (**FINRA Case #2009018819201**)

National Securities Corporation (CRD #7569, Seattle, Washington) and Matthew G. Portes (CRD #4995542, Registered Principal, Chicago, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and ordered to pay a total of $175,000 in restitution to investors. Portes was fined $10,000 and suspended from association with any FINRA member in any principal capacity for six months. Without admitting or denying the findings, the firm and Portes consented to the described sanctions and to the entry of findings that the firm failed to have reasonable grounds to believe that certain private placements offered pursuant to Regulation D were suitable for customers. The findings stated that the firm, acting through Portes, as the firm's Director of Alternative Investments/Director of Syndications, failed to adequately enforce its supervisory procedures to conduct adequate due diligence as it relates to an offering. The findings also stated that Portes and the firm became aware of multiple red flags regarding an offering, including liquidity concerns, missed interest payments and defaults, that should have put them on notice of possible problems, but the firm continued to sell the offering to customers. The findings also included that the firm, acting through Portes, failed to enforce its supervisory procedures to conduct adequate due diligence relating to other offerings.

FINRA found that Portes reviewed the PPMs for these offerings and diligence reports others prepared, but the review was cursory. FINRA also found that the due diligence reports noted significant risks and specifically provided that its conclusions were conditioned upon recommendations regarding guidelines, changes in the PPMs and heightened financial disclosure of affiliated party advances, but the firm did not investigate, follow up on or discuss any of these potential conflicts or risks with either the issuer or any third party. In addition, FINRA determined that the firm, acting through Portes, failed to enforce reasonable supervisory procedures to detect or address potential "red flags" as related to these offerings; and the firm, acting through Portes, failed to maintain a supervisory system reasonably designed to achieve compliance with applicable securities laws and regulations.

The suspension is in effect from June 20, 2011, through December 19, 2011. (**FINRA Case #2009019068201**)

Firm Fined, Individual Sanctioned

Callaway Financial Services, Inc. (CRD #104003, Arlington, Texas) and Corey Neil Callaway (CRD #1279194, Registered Principal, Arlington, Texas) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $40,000. FINRA imposed a lower fine after it considered, among other things, the firm's revenues and financial resources. Callaway was fined $10,000 and suspended from association with any FINRA member in any principal capacity for two months. Without admitting or denying the findings, the firm and Callaway consented to the described sanctions and to the entry of findings that the firm, acting through Callaway, its principal, failed to establish and implement an adequate AMLCP. The findings stated that the firm's AML program required it to monitor for potentially suspicious activity and AML red flags, investigate potentially suspicious activity and report suspicious activity by filing a special activity report form (SAR-SF), as appropriate. The findings also stated that the firm and Callaway failed to adequately implement or enforce the firm's AML program and to otherwise comply with their AML obligations, as they did not document any identification or review of numerous transactions to determine if they were, in fact, suspicious and were required to be reported on a SAR-SF. The findings also included that the firm's AML program required that it either conduct automated monitoring with exception reports its clearing firm provided, or manually monitor a sufficient amount of account activity to permit identification of patterns of unusual size, volume, pattern or type of transactions, or any of the red flags included in the written AML program; the firm and Callaway did neither.

FINRA found that the firm's AML program provided that the AML Compliance Officer be responsible for monitoring, documenting when and how it is carried out, and report suspicious activities to the appropriate authorities; the firm and Callaway did not document such review and did not report what were clearly suspicious activities. FINRA also found that Callaway and the firm learned that a customer had a criminal record, yet did not inquire into the nature of the crimes; this knowledge should have caused Callaway and the firm to give heightened scrutiny to all future activity in the accounts. In addition, FINRA determined that there was extensive activity involving penny stocks and low-priced stocks where shares were delivered into the account, quickly sold, and the proceeds wired to bank accounts belonging to the customer; the penny stock deposits and liquidations and the extensive wire transfers of funds out of the customer's accounts were red flags the firm and Callaway failed to either detect or investigate. Moreover, FINRA found that the firm and Callaway failed to inquire into the specifics of the customer's business, even as they were facilitating the removal of restricted legends from the shares purportedly given to the customer for his work; notably, the firm did not ask for, and the customer did not provide, an explanation of why the customer had accounts in the names of multiple corporate entities that were receiving shares of the same restricted stocks.

The suspension is in effect from June 6, 2011, through August 5, 2011. (**FINRA Case #2009016264701**)

Firms and Individuals Fined

Brookstone Securities, Inc. (CRD #13366, Lakeland, Florida) and David William Locy (CRD #4682865, Registered Principal, Overland Park, Kansas) submitted a Letter of Acceptance, Waiver and Consent in which the firm and Locy were censured and fined $25,000, jointly and severally. Without admitting or denying the findings, the firm and Locy consented to the described sanctions and to the entry of findings that the firm, acting through Locy, did not have WSPs addressing due diligence requirements for third-party placements. The findings stated that the firm, acting through Locy, failed to conduct an adequate due diligence of a third-party private placement offering before Locy approved the offering of shares to customers. The findings also stated that Locy's due diligence efforts did not include any investigation into an equity fund, despite acknowledging that he knew very little about it or the third-party placement and could not get any solid information about the fund, including pending litigation or financial statements. The findings also included that Locy knew nothing about the fund that was not contained in a PPM the issuer prepared, but accepted that the firm representatives forming the offering had conducted due diligence and relied on their opinion of the fund. FINRA found that Locy acknowledged the representatives had limited, if any, experience forming a private placement. FINRA also found that firm representatives sold or participated in sales of shares to customers without notifying Locy or anyone else at the firm, which caused those sales to not be recorded on the firm's books and records. (**FINRA Case #2009019837303**)

Searle & Co. (CRD #13035, Greenwich, Connecticut) and Robert Southworth Searle (CRD #839312, Registered Principal, Greenwich, Connecticut) submitted a Letter of Acceptance, Waiver and Consent in which the firm and Searle were censured and fined $10,000, jointly and severally. The firm was fined an additional $5,000. Without admitting or denying the findings, the firm and Searle consented to the described sanctions and to the entry of findings that the firm, acting through Searle, shared approximately $326,000 worth of profits in the account of a customer of another FINRA member firm. The findings stated that neither the firm nor Searle contributed financially to the customer's account; therefore, neither could share in the profits in direct proportion to their financial contributions to the account. The findings also stated that the firm failed to establish, maintain, and enforce adequate WSPs related to sharing in profits and losses in FINRA member firms' customer accounts. (**FINRA Case #2010022352301**)

Firms Fined

Automated Trading Desk Brokerage Services, LLC (CRD #36000, Mt. Pleasant, South Carolina) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $25,144.85, which includes disgorgement of unlawful profits of $5,144.85. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it executed short sales for its proprietary

accounts in securities covered by an SEC emergency order, which provided that all persons were prohibited from short selling any publicly traded securities of any listed "included financial firm," and required each exchange to designate which of their listed securities were subject to the short-selling ban. The findings stated that the firm executed the sales through its proprietary trading platform and obtained $5,144.85 in trading profits upon the short sales in securities the emergency order covered. (**FINRA Case #2009017862001**)

Banc of America Securities LLC (CRD #26091, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined $100,000 and ordered to pay $17,808.12, plus interest, in restitution to investors. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted Route or Combined Order/Route Reports to the Order Audit Trail System (OATS™) that the OATS system was unable to link to the related order routed to NASDAQ due to inaccurate, incomplete or improperly formatted data, and transmitted Route or Combined Order/Route Reports to OATS that the OATS system was unable to link to the corresponding new order transmitted by the destination member firm due to inaccurate, incomplete or improperly formatted data. The findings stated that the firm, in transactions for or with a customer, 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 effected transactions in securities while a trading halt was in effect with respect to each of the securities. The findings also included that the firm failed to accept or decline transactions in reportable securities in the NASD/NASDAQ Trade Reporting Facility (NNTRF) within 20 minutes after execution. FINRA found that the firm failed, within 90 seconds after execution, to transmit last sale reports of transactions in designated securities to the FINRA/NASDAQ Trade Reporting Facility (FNTRF). FINRA also found that the firm failed, within 90 seconds after execution, to transmit last sale reports of transaction in OTC™ equity securities to the Over-The-Counter Trade Reporting Facility (OTCRF). In addition, FINRA determined that the firm failed to report information regarding transactions effected in municipal securities to the Real Time Transaction Reporting System (RTRS) within 15 minutes of the trade time to an RTRS Portal. (**FINRA Case #2007010367501**)

BMO Capital Markets Corp. (CRD #16686, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined $57,500, and required to revise its written supervisory procedures regarding sales pursuant to SEC Rule 144 or by prospectus, and SEC Rule 203(a). Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it knew, or had reasonable grounds to believe, that the sale of an equity security was or would be effected pursuant to an order marked long, and failed to deliver the security on the date delivery was due. The findings stated that the firm effected short sale transactions for a customer who was deemed to own the security pursuant to SEC Rule 200 of Regulation SHO and for each transaction, the customer failed to make delivery within 35 days after the trade date,

and the firm failed to borrow the security or close out the short positions by purchasing securities of like kind and quantity. The findings also stated that the firm had fail-to-deliver positions at a registered clearing agency in threshold securities for 13 consecutive settlement days and failed to immediately thereafter close out the fail-to-deliver position by purchasing securities of like kind or quantity; the firm continued to have fail-to-deliver positions in the securities in that it failed to close out at the registered clearing agency as required for additional settlement days. The findings also included 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 written supervisory procedures in sales pursuant to SEC Rule 144 or by prospectus and SEC Rule 203(a).

FINRA found that the firm failed, within 90 seconds after execution, to transmit last sale reports of transactions in designated securities to the FNTRF. FINRA also found that the firm failed to show the terms and conditions on brokerage order memoranda. In addition, FINRA determined that the firm failed to report the correct contra-party's identifier for transactions in Trade Reporting and Compliance Engine™ (TRACE™)-eligible securities to TRACE. Moreover, FINRA found that the firm failed to prepare accurate customer confirmations, in that it failed to disclose its correct capacity in the transaction, and failed to disclose that the transaction was executed at an average price. Furthermore, FINRA found that the firm failed to properly mark orders long or short. (**FINRA Case #2008013554202**)

Brown Associates, Inc. (CRD #5049, Chattanooga, Tennessee) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined $50,000 and required to certify to FINRA in writing within 90 days of issuance of the AWC that the firm currently has in place systems and procedures reasonably designed to achieve compliance with the laws, regulations and rules concerning the preservation of electronic correspondence. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to properly archive its business-related electronic communications for individual users in some of its Offices of Supervisory Jurisdiction (OSJs). The findings stated that the firm stored these emails on stand-alone servers or individual machines only, which theoretically permitted individual users to delete incoming or outgoing emails, and thereby failed to properly preserve its business-related electronic correspondence. The findings also stated that the firm failed to review business-related electronic communications for the individuals and an additional user. The findings also included that the firm failed to evidence its review of individuals' business-related electronic communications as the firm's WSPs required. FINRA found that the firm failed to provide notification and third–party attestation to FINRA regarding the use of electronic storage media 90 days prior to employing such media. (**FINRA Case #2009016207701**)

DE Route aka Direct Edge ECN LLC (CRD #135981, Jersey City, New Jersey) 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 submitted Execution Reports or Combined Order/Execution Reports to OATS that contained inaccurate, incomplete or improperly formatted data. The findings stated that during a review period, the firm transmitted all its Execution Reports or Combined Order/Execution Reports to OATS for orders that had been routed away from the firm for execution. (**FINRA Case #2008014870001**)

FMSbonds, Inc. (CRD #7793, Boca Raton, Florida) 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 deliver official statements by the settlement date to numerous customers who purchased new issue municipal securities during the primary offering disclosure period; in all of these transactions, the firm was neither an underwriter nor part of the underwriting syndicate but was required to deliver an official statement to each customer by the settlement date. The findings stated that the firm failed to keep a record of deliveries of official statements to purchasers of new issue municipal securities, as Municipal Securities Rulemaking Board (MSRB) Rule G-8(a)(xiii) required. The findings also stated that the firm failed to adopt, maintain and enforce adequate written supervisory procedures pertaining to the firm's official statement delivery requirements to customers who purchased new issue municipal securities for secondary market transactions that occurred during the primary offering disclosure period, including those transactions in which the firm was not an underwriter nor part of the underwriting syndicate, as MSRB Rule G-32required; and the firm's requirements to maintain various records pertaining to its obligations to deliver official statements to customers who purchased new issue municipal securities, including those transactions in which the firm was not an underwriter nor part of the underwriting syndicate, as MSRB Rule G-8 required. (**FINRA Case #2009019191401**)

Grant Williams L.P. (CRD #45961, Philadelphia, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $20,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it made material changes in its business operations without first filing an application and obtaining FINRA approval. The findings stated that the firm increased the number of its registered representatives, an increase of 80 percent over the number of representatives provided for in its membership agreement, and increased the number of its registered and non-registered branch offices, an increase of 113 percent over the number of branch offices provided for in the membership agreement. (**FINRA Case #2009016225201**)

The GMS Group, LLC (CRD #8000, Livingston, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $50,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that at various times it failed to deliver official statements by settlement date to numerous customers who had purchased new issue municipal securities during the primary offering disclosure period. The findings stated that in all of these transactions, the firm was neither an underwriter, nor part of the underwriting syndicate but was required to deliver an official statement to each customer by the settlement date because the obligation to deliver the official statement is not limited to the underwriters of the municipal bond issue, but also to firms not participating in the offering that sell the municipal securities during the primary offering period and to secondary market transactions during that period. The findings also stated that the firm failed to enforce its WSPs pertaining to its official statement delivery requirements to customers who purchased new issue municipal securities for secondary market transactions that occurred during the primary offering disclosure period, including those transactions in which the firm was not an underwriter, nor part of the underwriting syndicate, as required by MSRB Rule G-32. (**FINRA Case #2009017280701**)

Huckin Financial Group, Inc. (CRD #8593, Houston, Texas) 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 establish and implement an adequate supervisory system, failed to conduct independent testing of its AMLCP and improperly associated with a statutorily disqualified person. The findings stated that the firm had inadequate procedures for supervision of transmittal of customer funds or securities, supervision of customer changes of address, supervision of customer changes of investment objectives and reliance on the Limited Size and Resources exception. The findings also stated that the firm's annual reports to senior management and CEO Annual Certifications were inadequate; the annual reports did not detail the firm's supervisory controls, did not evidence testing of the procedures and did not identify any weaknesses in the firm's procedures. The findings also included that the firm failed to submit its notification of its reliance on the Limited Size and Resources exception for one year. FINRA found that the firm was on notice that it was required to conduct an independent test annually, but it failed to conduct an independent test of its AMLCP for two years. FINRA also found that the firm permitted a statutorily disqualified person to be associated with and conduct activities on the firm's behalf; the individual was routinely on site at the firm, maintained an office inside firm premises, and had regular contact with firm customers. (**FINRA Case #2009016269501**)

Janney Montgomery Scott LLC (CRD #463, Philadelphia, Pennsylvania) 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 deliver official statements by the settlement date to numerous customers who purchased new issue municipal securities during the

primary offering disclosure period; in each of these transactions, the firm was neither an underwriter nor part of the underwriting syndicate. The findings stated that the firm failed, among other things, to document the type of disclosure sent and the name of the person sending the disclosure, each of which was required by MSRB Rule G-8(a)(xiii). The findings also stated that the firm allowed a third-party service provider to deliver official statements to firm customers. The findings also included that the firm failed to enforce its WSPs pertaining to its official statement delivery requirements to customers and its requirements to maintain various records pertaining to its obligation to deliver official statements to customers who purchased new issue municipal securities. FINRA found that the firm's WSPs specifically required firm operational personnel to conduct periodic reviews of the service provider to ensure that the official statements were timely delivered, but the firm's operational personnel failed to conduct a sufficiently thorough review of the service provider, or an adequate number of reviews, and in certain instances, failed to verify timely delivery of the official statements. (**FINRA Case #2009018503501**)

Kiley Partners, Inc. (CRD #37814, Palm Beach Gardens, Florida) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $17,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it reported municipal securities transactions late to the MSRB, and erroneously reported municipal transactions to the MSRB. The findings stated that the erroneously reported trades consisted of, among other things, purchases reported as sales, sales reported as purchases, incorrect trade volume reported and corrected trades after cancellations were not reported to the MSRB. The findings also stated that the firm reported corporate bond transactions late to TRACE. (**FINRA Case #2010021125601**)

Moors & Cabot, Inc. (CRD #594, Boston, Massachusetts) 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 for several calendar quarters, it made publicly available reports on its routing of non-directed orders in covered securities that were incomplete because they did not include covered orders for a particular market participant identifier (MPID) of the firm. (**FINRA Case #2009020595301**)

Morgan Stanley & Co. Incorporated (CRD #8209, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $110,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report short interest positions in securities to FINRA. 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 short interest position reporting. The findings also stated that the firm failed to report to TRACE the correct contra-party's identifier for transactions in TRACE-eligible securities, transactions in TRACE-eligible securities that it was required to report, the correct trade date for some transactions in TRACE-

eligible securities, and transactions in TRACE-eligible securities within 15 minutes of the execution time. The findings also included that the firm failed to report transactions effected in municipal securities to the RTRS within 15 minutes of trade time to an RTRS Portal and failed to report the correct execution time to the RTRS for the transactions. FINRA found that the firm failed to show the correct execution time in trade memoranda of the transactions in municipal securities. FINRA also found that the firm failed to report transactions in TRACE-eligible securities to TRACE that it was required to report. (**FINRA Case #2007011347201**)

Morgan Stanley & Co. Incorporated (CRD #8209, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined $100,000 and ordered to provide remediation to customers who purchased Unit Investment Trusts (UITs) and qualified for but did not receive a larger breakpoint discount (*i.e.*, a better price) based on a unit calculation or a larger breakpoint discount (*i.e.*, a better price) under the relevant sponsors' rules for aggregate purchases. The firm will submit to FINRA a proposed plan of how it will identify and compensate customers who qualified for, but did not receive, the applicable UIT sales charge discounts and complete the remediation within 180 days from the date FINRA accepts the firm's plan.

Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to establish an effective supervisory system and procedures reasonably designed to ensure that it applied appropriate sales charge discounts for UIT purchases in certain instances. The findings stated that the firm's systems failed to identify and provide eligible customers with breakpoint discounts offered by one sponsor's UITs based on the number of units purchased rather than the dollar amount invested, and failed to apply the greatest sales charge discount available when a client was rolling over multiple UITs on the same business day or when making an additional investment at the time a rollover was being effected. The findings also stated that one sponsor, with whom the firm had significant sales, permitted breakpoint sales charge discounts to be assessed based on a dollar amount or based on the number of units purchased; while the firm's system identified UIT purchases that qualified for breakpoint discounts on a dollar basis this sponsor offered, it failed to apply a breakpoint discount on a unit basis. The findings also included that this sponsor provided a breakpoint discount that was generally greater than a rollover or exchange discount for purchases of more than $250,000 or $500,000.

FINRA found that the firm had a manual process in place to determine whether a single rollover purchase would qualify for a greater breakpoint discount; on several occasions, the firm failed to properly identify and price transactions in accordance with its process. In addition, FINRA determined that the firm did not review same-day rollover aggregate transactions to identify whether a rollover or breakpoint sales charge reduction was best for the customer; certain other sponsors offered investors breakpoint sales charge reductions based on aggregated eligible same-day purchases. Moreover, FINRA found that

the firm did not have a system in place to aggregate UIT rollover or exchange purchases to determine if the transaction qualified for a higher breakpoint discount. Furthermore, FINRA found that the firm failed to establish an effective supervisory system and procedures reasonably designed to ensure that certain available sales charge discounts were applied on eligible customer UIT purchases. The findings also stated that customers were adversely impacted by the firm's failure to monitor for and provide for these sales charge discounts, and a review of transactions showed that customers were overcharged more than $40,000 as a result of the firm's failure to identify the sales charge discounts. (**FINRA Case #2008015700601**)

Oppenheimer & Co. Inc. (CRD #249, New York, New York) 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 deliver official statements by the settlement date to numerous customers who purchased new issue municipal securities during the primary offering disclosure period; in all of these transactions, the firm was neither an underwriter nor part of the underwriting syndicate, but was required to deliver an official statement to each customer by the settlement date. The findings stated that the firm failed to keep a record of deliveries of official statements to purchasers of new issue municipal securities, as MSRB Rule G-8(a)(xiii) required. The findings stated that the firm failed to enforce its WSPs pertaining to the firm's official statement delivery requirements to customers who purchased new issue municipal securities for secondary market transactions that occurred during the primary offering disclosure period, including those transactions in which the firm was not an underwriter nor part of the underwriting syndicate, as MSRB Rule G-32 required; and the firm's requirements to maintain various records pertaining to its obligations to deliver official statements to customers who purchased new issue municipal securities, including those transactions in which the firm was not an underwriter nor part of the underwriting syndicate, as MSRB Rule G-8 required. (**FINRA Case #2009018400501**)

Penson Financial Services, Inc. (CRD #25866, Dallas, Texas) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $27,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it accepted short sale orders in an equity security from another person, or effected a short sale 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 stated that the firm failed to properly adjust open orders; the firm failed, prior to executing or permitting the orders to be executed, to reduce, increase or adjust the price and/or number of shares of such orders by an amount equal to the dividend, payment or distribution, on the day that the security was quoted ex-dividend, ex-rights, ex-distribution or ex-interest. The findings also stated that the firm transmitted

reports to OATS that contained inaccurate, incomplete or improperly formatted data, in that one report did not include the special handling code and other reports contained inaccurate type and member-type codes. (**FINRA Case #2009017011501**)

Portfolio Advisors Alliance, Inc. (CRD #101680, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined $12,500 and required to revise its written supervisory procedures regarding OATS reporting requirements. 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) 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 requirements. (**FINRA Case #2009018229701**)

Smith, Moore & Co. (CRD #3441, Clayton, Missouri) 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, as a clearing firm, it cleared transactions for an introducing firm and foreign and domestic broker-dealers with piggyback arrangements, although it did not have contractual arrangements to provide clearing services with any broker-dealers other than with the introducing firm. The findings stated that the firm provided notice to the introducing firm that it was terminating the clearing agreement; but, at the introducing firm's request, the agreement was extended, several times, until the introducing firm filed a Uniform Request for Broker-Dealer Withdrawal (Form BDW) and then the firm terminated the clearing relationship. The findings also stated that the firm, acting in its capacity as a clearing firm, failed to detect, investigate and/or file SARs as appropriate, on occasions when red flags of suspicious activity were present, or document its rationale for not doing so. The findings also included that the firm failed to implement policies and procedures, for use in its clearing capacity, reasonably designed to detect and cause the reporting of suspicious activities.

FINRA found that the firm failed to create or maintain AML policies or procedures that were tailored to potential risks associated with its clearing relationship, but rather were tailored to its retail securities business; this lack of adequate procedures with respect to its clearing business resulted in its failure to detect, or conduct a reasonable investigation relating to, certain suspicious activities. FINRA also found that many of these suspicious activities occurred in accounts of the foreign broker-dealers for which the firm provided clearing services; certain of the transactions involved foreign customers who had accounts at these foreign broker-dealers. In addition, FINRA determined that the firm, acting in its capacity as a clearing firm, failed to conduct a reasonable investigation regarding these transactions; and also failed to file SARs and did not document its rationale for failing to file SARs. (**FINRA Case #2009018416701**)

Ticonderoga Securities LLC (CRD #7671, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined $10,000 and required to revise its written supervisory procedures regarding SEC Rule 15c2-11 and FINRA Rule 6640. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that in instances where it published a quotation for an OTC equity security or a non-exchange-listed security, or, directly or indirectly, submitted such quotation for publication, in a quotation medium, that is, the Pink Sheets, LLC, and did not have in its records the documentation and information required by SEC Rule 15c2-11(a)(Paragraph (a) information), it did not have a reasonable basis under the circumstances for believing that the Paragraph (a) information was accurate in all material respects, and the sources of the Paragraph (a) information were reliable. The findings stated that the quotations did not represent a customer's indication of unsolicited interest. The findings also stated that for each quotation, the firm failed to file a Form 211 with FINRA at least three business days before the quotation was published or displayed in a quotation medium. The findings also included 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 Rule 15c2-11 and FINRA Rule 6640. (**FINRA Case #2009020783501**)

UBS Securities LLC (CRD #7654, Stamford, Connecticut) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $300,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to update the company codes in the client-based database after the individual responsible for that task left the firm. The findings stated that emails indicating that the company codes had been added were not sent to the firm's Client Management Team (CMT) by another group at the firm, the Core Client Data Services Group (CCDS). The findings also stated that the Client Data Strategist, a senior officer in CMT who was in charge of producing a business object report that combined the research and revenue information for each client to create required non-investment banking disclosures in equity research reports continued to produce the report without confirming that the company codes were updated. The findings also included that the Client Data Strategist continued to produce the reports, so a file was created and uploaded in the firm's central disclosure database, even though it contained incomplete information.

FINRA found that since the reports were completed, email alerts were not triggered at the end of the process, and as a result of the failures during the update process, equity research reports the firm published failed to include one or more required non-investment banking disclosures (non-investment banking compensation, non-investment banking securities-related services and non-securities services). FINRA also found that as a result of certain information contained in the firm's central disclosure database not being updated due to the update process failure, research analysts creating and sending information about the impacted subject companies to media outlets in connection with public appearances

failed to disclose the firm's non-investment banking related compensation and the types of services (non-investment banking securities-related services and non-securities services) it provided during the prior 12 months. In addition, FINRA determined that the firm failed to adequately implement its supervisory procedures concerning compliance with NASD Rule 2711(h), and the firm failed to conduct follow-up and review to ensure that its employees were performing their assigned responsibilities of collecting and updating data to generate accurate disclosures, and to have a verification process to confirm that each group was performing its task to ensure the flow of updated information at each stage had accurate disclosures. Moreover, FINRA found that the firm failed to adequately implement its written procedures that provided for step-by-step guidance for updating the required disclosures in the relevant databases in order to reasonably ensure that they were disclosed in the research reports and in public appearances. (**FINRA Case #2009018057401**)

Vision dba Vision Brokerage Services, LLC (CRD #47927, Stamford, Connecticut) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined $22,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report its MPID as the executing FINRA member for TRACE-eligible securities transactions with customers to TRACE. The findings stated that the firm effected inter-dealer corporate bond transactions but did not preserve records of original entry containing an itemized daily record of all purchases and sales of the transactions for the first two years in an easily accessible place. 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. The findings also included that the firm's supervisory system did not include WSPs providing for a statement of the supervisory steps to be taken to compare the information reported on TRACE with the firm's trading records to ensure that all trade information, including, but not limited to the correct MPID information and inter-dealer transaction information, was accurately and fully reported to TRACE. (**FINRA Case #2010021330501**)

Wells Fargo Advisors, LLC (CRD #19616, St. Louis, Missouri) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined $23,000 and ordered to pay $15,708.25, plus interest, in restitution to customers. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that in transactions for or with a customer, it 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 #2006005324201**)

Individuals Barred or Suspended

Michael Wilson Adams (CRD #808265, Registered Principal, Marengo, Ohio) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $5,000, suspended from association with any FINRA member in any capacity for three months and ordered to pay $85,000, plus interest, in restitution to a customer. The fine and restitution must be paid either immediately upon Adams' 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, Adams consented to the described sanctions and to the entry of findings that he borrowed $85,000 from a customer of his member firm contrary to the firm's compliance manual, which generally prohibited representatives from borrowing money from a customer other than an immediate family member, which the customer was not.

The suspension is in effect from May 16, 2011, through August 15, 2011. (**FINRA Case #2010023818301**)

Catherine Laura Baker (CRD #2882339, Registered Representative, New Galilee, Pennsylvania) 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 one month. Without admitting or denying the findings, Baker consented to the described sanctions and to the entry of findings that she requested, received and distributed answer keys for long-term care (LTC) continuing education (CE) exams to member firm representatives, and asked other firm representatives to distribute LTC CE answer keys to outside financial advisors. The findings stated that certain states implemented an LTC CE requirement that obligated financial advisors to complete an LTC CE course and exam before selling LTC insurance products, including the product Baker sold, to customers who resided in that state. The findings also stated that in order to help financial advisors obtain the LTC CE requirement, Baker's firm provided them with vouchers that allowed financial advisors to take CE exams for free through a specific company. The findings also included that in addition to providing financial advisors with the vouchers, certain firm employees improperly created, requested, received and distributed answer keys for state LTC CE exams.

The suspension is in effect from June 20, 2011, through July 19, 2011. (**FINRA Case #2009021029618**)

David Harry Michael Baudo (CRD #3187137, Registered Representative, Sanford, Florida) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Baudo consented to the described sanction and to the entry of findings that he recommended that customers invest in a private securities transaction without providing notice of his proposed role in the transaction to his member firm. The findings stated that Baudo recommended that the customers invest approximately $167,000—all of the

funds in their account—in a start-up company that sought to operate an independent branch of another broker-dealer; the recommended security was supposed to pay annual interest of 7 percent on a quarterly basis over a fixed term. The findings also stated that Baudo recommended that the customers invest in the company after he gathered information about the company and investment from a former business colleague, who was the company's founder and sole principal. The findings also included that Baudo did not have reasonable grounds to believe that the recommended investment was suitable for the customers in light of their investment objectives, financial situation and needs; the recommended investment was too risky for the customers, who were a retired couple of limited means. FINRA found that the recommendation led to most of their investable assets being over-concentrated in the security. FINRA also found that prior to its dissolution in 2010, the company made interest and principal payments totaling approximately $26,000 to the customers, who lost approximately $141,000 on their investment in the company. In addition, FINRA determined that Baudo failed to completely respond to FINRA requests for information and documents. (**FINRA Case #2010024861801**)

Michael Dennis Berger (CRD #1785162, Registered Principal, Millington, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $5,000, suspended from association with any FINRA member in a financial and operations principal (FINOP) capacity for 10 days, and ordered to requalify thereafter as a FINOP by examination prior to reassociation with any FINRA member firm in that capacity. Without admitting or denying the findings, Berger consented to the described sanctions and to the entry of findings that he filed an inaccurate Financial and Operational Combined Uniform Single (FOCUS™) Report that indicated his member firm's net capital was above the firm's minimum net capital requirement, when it was not, and caused his firm to violate Section 17(a) of the Exchange Act and Rule 17a-5 thereunder. The findings stated that Berger's failure to account for accrued expenses in calculating the firm's net capital caused the net capital deficiency. The finding also stated that, at another time, the firm was net capital deficient and Berger attributed the net capital deficiency to a trading error that resulted in a loss and to certain aged commissions receivable. The findings also included that Berger, on the firm's behalf, reported to FINRA and the SEC that another net capital deficiency was due to his error in including certain non-allowable assets in the firm's capital computations.

FINRA found that Berger caused his firm to violate Section 15(c) of the Securities Exchange Act of 1934 (Exchange Act) and Rule 15(c)3-1(c)2 thereunder by failing to maintain the required minimum net capital. FINRA also found that Berger caused his firm to violate SEC Rule 15c3-1 by conducting a securities business while not maintaining its required net capital levels. In addition, FINRA determined that as FINOP, Berger failed to provide prompt notification to the New York Stock Exchange (NYSE) that the firm did not maintain the level of excess net capital as NYSE Rule 325(b)(1)1 required. Moreover, FINRA found that Berger caused the firm to violate Section 17(a) of the Exchange Act and Rule 17a-3 thereunder and NASD Rule 3110 by failing to properly calculate the firm's net capital levels, and including this incorrect information on the firm's books and records. Furthermore,

FINRA found that Berger overstated the firm's excess net capital in its weekly net capital computation submitted to FINRA. The findings also included that Berger erroneously included commissions' receivable for a period greater than 30 days as an allowable asset, thereby causing the firm to maintain inaccurate books and records in violation of Section 17(a) of the Exchange Act, Rule 17a-3 thereunder, and NASD Rule 3110.

The suspension was in effect from June 20, 2011, through June 29, 2011. (**FINRA Case #2009017749701**)

Irving Vincent Boberski (CRD #2583066, Registered Representative, Charlottesville, Virginia) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Boberski willfully failed to disclose material information on his Form U4, and failed to respond to FINRA requests for information and documents. (**FINRA Case #2009018217301**)

Renee Marie Brown (CRD #3221618, Registered Principal, Golden Valley, Minnesota) 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, Brown consented to the described sanction and to the entry of findings that she failed to completely respond to FINRA requests for information and failed to appear for a FINRA on-the-record interview. (**FINRA Case #2010022064001**)

Kenneth Richard Campbell III (CRD #2056286, Registered Principal, Richmond, Virginia) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $5,000 and suspended from association with any FINRA member in any principal capacity for one month. The fine must be paid either immediately upon Campbell'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, Campbell consented to the described sanctions and to the entry of findings that he failed to enforce his member firm's heightened supervisory procedures with respect to one of its representatives. The findings stated that, according to those procedures, Campbell was responsible for determining the scope of the heightened supervision and ensuring that the representative's supervisor was enforcing the heightened supervision plan. The findings also stated that the firm required that the plan be individualized based on the representative's disciplinary history. The findings also included that Campbell placed a representative on heightened supervision because of his disciplinary history, and the plan Campbell prepared was deficient because it was not tailored to that representative's history of engaging in private securities transactions and did not provide for any material additional supervision beyond the usual steps that were taken to oversee other firm representatives. FINRA found that Campbell failed to ensure that the plan was implemented and, as a result, a log was not created of the representative's trades, certifications were not made to the compliance department that the heightened supervision plan was implemented, and an annual review of the plan did not take place; the plan required all of these actions to have been taken.

The suspension was in effect from May 16, 2011, through June 15, 2011. (**FINRA Case #2010024997001**)

Thomas Colby Cantrell (CRD #4545913, Registered Representative, Granville, Ohio) submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member in any capacity for 12 months. In light of Cantrell's financial status, no monetary sanctions were imposed. Without admitting or denying the findings, Cantrell consented to the described sanctions and to the entry of findings that he participated in sales of universal lease programs (ULPs) totaling $763,888.82 to members of the public, failed to provide his member firm with written notice about the sales and failed to obtain the firm's written approval. The findings stated that Cantrell provided false information to his firm; he completed and submitted an outside business activities questionnaire form in which he falsely stated he conducted no business using a DBA (doing business as), falsely responded whether any other company or individual employed him, falsely disclosed that he was not involved with outside business activities, and answered "yes" that he was aware he could not engage in outside business activities or private securities transactions, directly or indirectly, without prior written firm approval. The findings also stated that Cantrell participated in a sale of a total of $210,547.05 worth of ULPs to individuals at another member firm and failed to provide the firm with written notice about the sales or obtain the firm's written approval. The findings also included that Cantrell received approximately $94,070 in commissions from his sale of the ULPs while registered with both firms.

The suspension is in effect from June 20, 2011, through June 19, 2012. (**FINRA Case #2009016709021**)

Bart Chad Christensen (CRD #2956167, Registered Representative, South Jordan, Utah) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Christensen consented to the described sanction and to the entry of findings that he sold approximately $650,000 in a company's promissory notes to customers without providing his member firm with written notice of the promissory note transactions and receiving the firm's approval to engage in these transactions. The findings stated that based upon expected interest payments from the promissory notes, some of the customers also purchased life insurance policies from Christensen and another registered representative the firm employed. The findings also stated that these customers expected to use the promissory note interest payments to pay for the life insurance premiums. The findings also included that Christensen received direct commissions from the company related to the sale of the promissory notes to customers and received commissions from the sale of life insurance products to the customers, who intended to fund those policies with the interest payments from the promissory notes.

FINRA found that the company defaulted on its obligations and the customers lost their entire investment. FINRA also found that the customers who also purchased life insurance based upon the expectation that they would receive interest payments from their investment relinquished their policies and the firm compensated them for the premiums paid, but the customers did not receive any reimbursement for the investments in the company that sold the promissory notes. In addition, FINRA determined that Christensen completed a firm annual compliance questionnaire, in which he falsely stated that he had not been engaged in any capital raising activities for any person or entity; had not received fees for recommending or directing a client to other financial professionals; had not been personally involved in securities transactions, including promissory notes, that the firm had not approved; and had not assisted a client with an application for investments not available through the firm or contracted or otherwise acted as an intermediary between a client and a sponsor of such investments without the firm's prior approval. Moreover, FINRA found that Christensen failed to respond to FINRA requests for documents and testimony. (**FINRA Case #2009018990002**)

Kimberlie Munsie Clark (CRD #2897446, Registered Principal, Arlington, Vermont) 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, Clark consented to the described sanction and to the entry of findings that she misappropriated $8,333.33 from her member firm. The findings stated that Clark was her firm's Chief Financial Officer and co-Chief Operating Officer with authority to write checks from its checking accounts, including checks for her own compensation. The findings also stated that Clark was entitled to a payroll check in the amount of $8,333.33 and issued a check to herself for that amount and, without the firm's permission, issued herself another $8,333.33 check. The findings also included that both payroll checks were deposited in Clark's personal banking account. (**FINRA Case #2010025003701**)

David Charles Clayton (CRD #1829070, Registered Representative, Castro Valley, California) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $5,000, which includes disgorgement of financial benefits received of $2,199.13, suspended from association with any FINRA member in any capacity for 20 business days and ordered to pay $2,560.14, plus interest, in restitution to a customer. Without admitting or denying the findings, Clayton consented to the described sanctions and to the entry of findings that he executed a transaction for a customer without the customer's authorization or consent. The findings stated that the customer agreed to open an Individual Retirement Account (IRA) with Clayton's member firm, to transfer approximately $199,921 from an existing IRA account and to invest the funds in a mutual fund. The findings also stated that the customer executed a new account form, a request to change investments form and other documents necessary to accomplish the transaction; Clayton was the broker responsible for the customer's account at the firm. The findings also included that the transfer of funds from the customer's existing IRA account had not yet been completed before Clayton received an electronic mail message from the customer in which she requested that her

funds be placed in a money market account rather than in the mutual fund; the customer thereby withdrew her authorization for the purchase of shares in the mutual fund. FINRA found that despite Clayton's knowledge that the customer no longer wished to purchase shares in the mutual fund, he did not take any steps to cancel the customer's order and executed the purchase of the mutual fund shares.

The suspension was in effect from June 6, 2011, through July 1, 2011. (**FINRA Case #2008015620301**)

Maritza Del Carmen Cruz (CRD #4708750, Registered Representative, Chino, California) submitted a Letter of Acceptance, Waiver and Consent in which she was fined $5,000 and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Cruz' 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, Cruz consented to the described sanctions and to the entry of findings that she participated in an outside business activity without providing her member firm with prior written notice. The findings stated that an individual offered Cruz $3,000 in exchange for referring firm clients and others with available credit on their personal credit cards who would invest in his newly created business. The findings also stated that the individual failed to pay those who invested in his business as promised. The findings also included that Cruz misrepresented to her firm her involvement in the outside business activity on a compliance her firm review conducted. FINRA found that upon admitting her involvement in the outside business activity to her firm, the firm immediately suspended Cruz, conducted an internal investigation and later terminated Cruz.

The suspension is in effect from June 6, 2011, through September 5, 2011. (**FINRA Case #2009019865801**)

Lauren Tricia Cyrus (CRD #2937063, Registered Principal, West Orange, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which she was fined $5,000 and suspended from association with any FINRA member in any principal capacity for one month. The fine shall be due and payable, pursuant to an installment plan, beginning either immediately upon reassociation with a member firm following her suspension, or prior to any application or request for relief from any statutory disqualification resulting from this or any other event or proceeding, whichever is earlier. Without admitting or denying the findings, Cyrus consented to the described sanctions and to the entry of findings that she failed to supervise representatives at her member firm who made unsuitable recommendations to customers at their firm. The findings stated that Cyrus was responsible for supervising the representatives but failed to take appropriate action to supervise the representatives that was reasonably designed to prevent their violations and achieve compliance with applicable rules. The findings also stated that Cyrus failed to adequately review and follow up on the over-concentration of the customers' liquid assets in preferred stocks and the risks associated with those securities.

The suspension was in effect from June 6, 2011, through July 5, 2011. (**FINRA Case #2009017399501**)

Salvatore Demeo Jr. (CRD #2927685, Registered Representative, Phoenix, Arizona) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Demeo converted funds from a customer's account by withdrawing $9,417.11 from the customer's bank account without the customer's knowledge or authorization, deposited the funds into a bank account for his company and used them for his personal benefit. The findings also stated that Demeo failed to appear for FINRA on-the-record testimony. (**FINRA Case #2009018139301**)

Shaun Michael Donahue (CRD #5581483, Registered Representative, Ridley Park, 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 one month. Without admitting or denying the findings, Donahue consented to the described sanctions and to the entry of findings that he requested, received and improperly distributed the answer key for a state LTC CE examination to a financial advisor outside his member firm. The findings stated that Donahue was an internal wholesaler at a firm who supported the selling efforts of external wholesalers who marketed an insurance product to financial advisors at financial service firms. The findings also stated certain states began requiring financial advisors to successfully complete an LTC CE examination before selling long-term care products to retail customers. The findings also included that the firm authorized its wholesalers to give financial advisors vouchers from a company, which the financial advisors could use to take the LTC CE examinations without charge. FINRA found that firm employees, other than Donahue, created answer keys for the company's LTC CE examinations for various states, and distributed them to other firm employees.

The suspension is in effect from June 20, 2011, through July 19, 2011. (**FINRA Case #2009021029619**)

Aaron Michael Ferguson (CRD #2676804, Registered Representative, Queens, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $5,000 and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Ferguson'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, Ferguson consented to the described sanctions and to the entry of findings that he participated in a private securities transaction without providing his member firm with prior notice of the proposed transaction or his proposed role in it. The findings stated that Ferguson did not receive any compensation in connection with the private securities transaction.

The suspension is in effect from June 6, 2011, through September 5, 2011. (**FINRA Case #2009019298101**)

Alfonso Fiero (CRD #4248781, Registered Principal, Queens Village, New York) was barred from association with any FINRA member in any capacity. The sanction was based on findings that while registered with a member firm, Fiero maintained a corporate brokerage account which he controlled at another member firm (the executing firm) without disclosing the existence of this account to his firm or his association with his firm to the executing firm. The findings stated that Fiero failed to disclose the existence of any outside securities account, including any accounts where he had control over the investments on an annual certification form he submitted to his firm. The findings also stated that Fiero failed to respond to FINRA requests for information and documents. (**FINRA Case #2008015329001**)

Timothy Martin Foster (CRD #4497560, Registered Representative, Chillicothe, Ohio) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $10,000 and suspended from association with any FINRA member in any capacity for 20 business days. The fine must be paid either immediately upon Foster'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, Foster consented to the described sanctions and to the entry of findings that he recommended to customers that they purchase UITs without having reasonable grounds to believe the recommendations were suitable based on the customers' risk tolerance, investment experience, need for income, net worth, investable assets and annual income. The findings stated that Foster's member firm paid the customers a total of $23,199.25 in restitution and compensated customers $124 for a missed breakpoint.

The suspension was in effect from May 16, 2011, through June 13, 2011. (**FINRA Case #2008015078602**)

Andrew Joseph Franz (CRD #3122848, Registered Representative, Aurora, Ohio) 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, Franz consented to the described sanction and to the entry of findings that without authorization, he took possession of checks payable to the investment adviser firm where he was employed, deposited the checks, which totaled about $21,000, to a personal bank account, and converted a portion of the funds to his own use and benefit. The findings stated that Franz was the broker of record for a money market mutual fund account that an investor owned, and while the investor was out of state and without his knowledge or authorization, Franz contacted the mutual fund company multiple times and instructed it to issue checks to the investor drawn against his money market account. The findings also stated that the mutual fund company issued checks payable to the investor totaling about $271,250 and mailed them to the investor's residence in Ohio. The findings also included that Franz obtained possession of the checks at the investor's residence and, without the investor's knowledge or authorization, Franz forged his signature on the checks, deposited the checks to a personal bank account and converted a portion of the funds to his own use and benefit and remitted the rest to the investor. (**FINRA Case #2010025073601**)

Edward Philip Gelb (CRD #1967796, Registered Principal, Melville, 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, Gelb consented to the described sanction and to the entry of findings that he solicited individuals, including customers at his member firm, to invest in entities that were purportedly engaged in the export and import business with a manufacturer based in China. The findings stated that in total, Gelb raised approximately $1.8 million from investors and received approximately $79,500 from the entities as compensation derived from his solicitation of, and directing investors to, the entities. The findings also stated that Gelb was aware of his firm's policies and procedures, which specifically prohibited its registered representatives from participating in any manner in the solicitation of any securities transaction outside the regular scope of their employment without approval. The findings also included that Gelb signed annual certifications attesting to this knowledge and failed to notify his firm about his solicitation of investors for the entities because he did not expect the firm's approval of the product.

FINRA found that the firm customers who invested in the entities Gelb recommended had low risk tolerances and had investment objectives of growth and/or income, and Gelb did not have a reasonable basis for recommending the entities to the customers. FINRA also found that Gelb failed to obtain adequate information about the investment and instead relied upon unfounded representations, including guarantees that the investors' principal would be protected despite the fact that, at no time, had Gelb seen any financial documentation for the entities; the information available on the Internet about the entities was limited to the companies' own website. In addition, FINRA determined that despite the highly risky nature of the investment, Gelb led the customers to believe that the investment he was recommending was a safe and secure investment and, in some cases, Gelb was aware that customers were taking out home equity lines of credit on their homes to fund their investments in the entities. Moreover FINRA found that Gelb utilized an outside email account, without his firm's knowledge or consent, to conduct securities business. Furthermore, FINRA found that although the firm was aware of the outside email account, Gelb had not been approved to utilize that email address to conduct securities-related business and by operating an outside email account for securities-related business without the firm's knowledge and consent, Gelb prevented his firm from reviewing his emails pursuant to NASD Rule 3010(d). (**FINRA Case #2009019466601**)

Jason Scott Haney (CRD #4333126, Registered Supervisor, Winston, Georgia) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $10,000, which includes disgorgement of $5,477.86 in commissions received, suspended from association with any FINRA member in any capacity for two months and required to requalify by exam as an investment company/variable contracts representative (Series 6) prior to becoming reassociated with any FINRA member in any capacity. The fine must be paid either immediately upon Haney'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, Haney consented to the described sanctions and to the entry of filings that he negligently misrepresented a 6 percent guaranteed minimum income benefit with annual reset rider to a variable annuity to an unsophisticated customer who believed she could exercise the rider for a 6 percent income stream every year without annuitization, could receive a 6 percent income stream every year and receive her entire initial principal back at the end of the variable annuity's four-year holding period, regardless of the stock market's performance and any withdrawals in the intervening years. The findings stated that the customer understood, based on Haney's misrepresentations, that the annuity had a four-year holding period similar to a certificate of deposit (CD) term. The findings also stated that the customer, based on Haney's misrepresentations, invested $168,550.53 in the variable annuity with the rider. The findings also included that Haney's recommendation was unsuitable because the customer was not a sophisticated investor and did not understand how a variable annuity worked; the need for liquidity within two to four years negated the rider's primary benefit of provided guaranteed income after a minimum of 10 years. FINRA found that the investment of approximately a total of $218,000 involved an over-concentration of approximately 77 percent of the customer's liquid net worth.

The suspension is in effect from June 6, 2011, through August 5, 2011. (**FINRA Case #2009019512901**)

Dane Raymond Henry (CRD #2446502, Registered Representative, Brooklyn, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $5,000 and suspended from association with any FINRA member in any capacity for 30 business days. Without admitting or denying the findings, Henry consented to the described sanctions and to the entry of findings that he added information to an earlier copy of a private placement investor questionnaire that had previously been signed by a customer. The findings stated that the questionnaire itself had been completed by the customer while Henry was registered with a prior member firm and was later replaced at that prior firm by a different version; Henry maintained a copy of the earlier signed copy. The findings also stated that in response to an inquiry made by Henry's new firm's CCO regarding the source of a particular stock in the customer's account, Henry utilized the earlier copy of the previously signed questionnaire from the customer that Henry had in his files and made alterations to the document by adding on the updated requested information sought by the CCO. The findings also included that Henry presented that altered document to the CCO without disclosing that he had made the alterations and by making the alterations to the questionnaire, he caused the document and, consequently, the firm's records to be inaccurate.

The suspension is in effect from June 6, 2011, through July 18, 2011. (**FINRA Case #2009018021801**)

Lien Thi Huynh (CRD #4751613, Registered Representative, Redwood City, California) submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Huynh consented to the described sanction and to the entry of findings that she forged her supervisor's signature on one of his personal banking account checks, made the check payable to herself in the amount of $9,000, cashed the check without her supervisor's knowledge or authority, and deposited the funds into her relative's checking account, thereby misappropriating her supervisor's funds and converting the funds for her personal benefit and use. The findings stated that Huynh attempted to conceal her wrongdoing by writing "compensation/bonus quarter 1 and quarter 2" on the check's "re:" line. The findings also included that the supervisor's bank reimbursed him for the fraudulent transaction. (**FINRA Case #2009018467001**)

Matthew John Iskric (CRD #601605, Registered Supervisor, Huntington, 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, Iskric consented to the described sanction and to the entry of findings that he misused his member firm's funds by using the firm's corporate credit card for personal purposes, including purchases of gift cards from various retailers. The findings stated that the amount of unauthorized charges was in excess of $10,000. The findings also stated that while registered with a different member firm, Iskric failed to timely update his Form U4 with material information. (**FINRA Case #2009017857501**)

Jeffrey Garland Kelly (CRD #2547707, Registered Representative, Hilliard, Ohio) 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, Kelly consented to the described sanction and to the entry of findings that while registered at member firms, he failed to provide written notice to each firm that he was employed by or accepted compensation from other persons as a result of business activities that were neither passive investments nor within the authorized scope of his relationship with his firms. The findings stated that Kelly was primarily responsible for the operation of a company, having handled its formation, negotiated its loan agreements and controlled its finances, including investments and distributions and received direct and indirect compensation. The findings also stated that Kelly formed additional entities, filed registration documents, served as their registered agent and took out loans on their behalf, which were business activities unrelated to his relationship with his member firms. The findings also included that Kelly failed to disclose these companies to his member firms and falsely represented on his qualifying questionnaire for his most recent firm that he did not and would not engage in any outside business activities without prior notification to, and written consent from, the firm. FINRA found that Kelly participated in private securities transactions without prior written notice to his firms describing in detail the proposed transactions, his proposed role therein, and stating whether he received, or might receive, selling compensation. (**FINRA Case #2010025192301**)

Scott Edward Kelly (CRD #2306574, 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, Kelly consented to the described sanction and to the entry of findings that he facilitated a customer's investments in private placements totaling $775,000 without providing his member firm with prior written notice of any of the investments or obtaining the firm's prior approval to facilitate any of the investments. The findings stated that Kelly failed to respond to FINRA requests for information and documents. (**FINRA Case #2009018756701**)

Patrick Shawn Kennedy (CRD #3005062, Registered Supervisor, 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 nine 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 continued recommending and effecting put options trading in a customer's account even though he knew that the trading was unsuitable because the customer was unemployed and the risk was inconsistent with the customer's financial resources, investment objectives and risk tolerance. The findings stated that Kennedy recommended that an elderly couple invest $50,000 in a put options trading strategy with approximately $57,000 to be invested in mutual funds and bonds with none of the mutual funds to be used for put options trading. The findings also stated that the customers' account, which had approximately $267,298.55, suffered realized and unrealized losses of $195,046.40 due to Kennedy's put option trading strategy and the liquidation of mutual funds to cover losses from the put options trading and to meet margin requirements of securities that were purchased in the customers' account due to the put options trading.

The suspension is in effect from May 16, 2011, through February 15, 2012. (**FINRA Case #2009018671501**)

Thomas Michael Kinser (CRD #1435579, Registered Representative, Southlake, Texas) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Kinser converted approximately $330,000 in customer's funds. The findings stated that Kinser called the mutual fund company through which he had invested customer's funds to change the address on the account from the customer's residential address to Kinser's office address. The findings also stated that at Kinser's request, the mutual fund company sent redemption checks drawn on the customer's account to Kinser without the customer's knowledge, consent or authorization, and Kinser forged the customer's signature on the checks, endorsed them to make them payable to him and deposited the funds in his own account. The findings also included that to conceal the conversions, Kinser fabricated account summaries and documents, including charts

and statements purporting to reflect the customer's account balance, which he presented to the customer in periodic meetings, misleading the customer into believing all of his money was still invested in mutual funds and was still earning interest. FINRA found that Kinser failed to respond to FINRA requests for information and documents. (**FINRA Case #2009017466201**)

Ryan Jeffrey Kirkpatrick (CRD #4459488, Registered Representative, Granbury, Texas) was fined $25,000, suspended from association with any FINRA member in any capacity for six months, and ordered to disgorge $91,466, which represents the commissions earned on the sales of unregistered securities. The fine and disgorgement shall be due and payable upon Kirkpatrick's return to the securities industry. The sanctions were based on findings that Kirkpatrick sold millions of unregistered shares of stock for accounts opened at his member firm on his customers' behalf, realizing approximately $9.3 million in proceeds for the customers without taking the necessary steps to determine whether his customers' unregistered shares could be sold in compliance with Section 5 of the Securities Act of 1933. The findings stated that Kirkpatrick signed new account forms for the customers, did not review them in depth, neither met nor spoke with the customers, and communicated with them solely via email and instant message. The findings also stated that Kirkpatrick failed to conduct the necessary due diligence prior to the entity's stock sales from the customers' accounts; the circumstances surrounding the entity's stock and the firm's customers presented numerous red flags of a possible unlawful stock distribution. The findings also included that the sales through one of the customers' accounts at Kirkpatrick's firm realized approximately $5.8 million in proceeds for the customer, and another customer realized approximately $3.5 million in proceeds; the total commissions generated for these sales were $481,398 of which Kirkpatrick received commissions totaling $91,466.

FINRA found that Kirkpatrick admitted that he did not determine if a registration statement was in effect with respect to the customers' entity shares, or if there was an applicable exception; instead he relied on the issuer's transfer agent to determine if the entity stock the customers deposited could be sold. FINRA also found that Kirkpatrick did not review the customers' incoming stock questionnaires, nor did he request or review the stock certificates, which indicated information about how and from whom the shares were purchased, whether the customer was affiliated with the issuer and whether the stock was restricted. In addition, FINRA determined that Kirkpatrick noticed that the accounts seemed to have the same trading pattern, yet he failed to investigate and failed to make any effort to determine the source of the customers' shares.

The suspension is in effect from May 16, 2011, through November 15, 2011. (**FINRA Case #2006004666601**)

Manuel Jose Leon Jr. (CRD #1058319, Registered Principal, Altamonte Springs, Florida) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the

findings, Leon consented to the described sanction and to the entry of findings that he recommended that a couple invest $167,000 in a private securities transaction without providing notice of his proposed role in the transaction to his member firms. The findings stated that Leon formed a company through which he sought to operate an independent branch of a broker-dealer and did not have reasonable grounds to believe that the recommended investment in the company was suitable for the couple in light of their investment objectives, financial situation and needs; the recommended investment was too risky for the customers, who were a retired couple of limited means. The findings also stated that the recommendation led to most of their investable assets being over-concentrated in the security. In addition, FINRA determined that prior to its dissolution, the company made interest and principal payments totaling approximately $26,000 to the couple, who lost approximately $141,000 on their investment in the company. The findings also included that Leon failed to respond completely to FINRA requests for information and documents. (**FINRA Case #2010024861802**)

Dareth Amber Martin (CRD #4479899, Registered Representative, Charlotte, North Carolina) submitted an Offer of Settlement in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Martin consented to the described sanction and to the entry of findings that she misappropriated at least $81,670 from her employer and its owner through the use of credit cards and checks for unauthorized purposes. The findings stated that Martin, without authorization, used her employer's personal credit cards and business credit account to purchase personal items, totaling at least $34,516, and used her employer's business checking account, without authorization, to issue checks for personal items exceeding $1,603. The findings also stated that Martin issued checks from the business account to herself and made cash withdrawals for herself without authorization; these withdrawals exceeded the actual business expenses by at least $23,385. The findings also included that Martin issued, or caused to be issued, checks to herself for unauthorized bonus payments totaling at least $22,166. FINRA found that Martin failed to appear for FINRA on-the-record testimony. (**FINRA Case #2009019349301**)

Joseph Vincent Massaro (CRD #5195215, Registered Representative, Port Jefferson, New York) 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 nine months. The fine must be paid either immediately upon Massaro'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, Massaro consented to the described sanctions and to the entry of findings that he signed a customer's name to a variable annuity exchange form to effectuate the customer's order to purchase a new variable annuity, without the customer's authorization or consent. The findings stated that Massaro failed to respond timely to FINRA requests for information.

The suspension is in effect from June 6, 2011, through March 5, 2012. (**FINRA Case #2010022427702**)

Bryan C. McCabe (CRD #5024207, Registered Representative, Ashburn, Virginia) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $5,000 and suspended from association with any FINRA member in any capacity for 10 business days. Without admitting or denying the findings, McCabe consented to the described sanctions and to the entry of findings that he requested and received answer keys to state insurance LTC CE examinations and distributed them to other employees at his member firm.

The suspension was in effect from June 6, 2011, through June 17, 2011. (FINRA Case **#2009021029617**)

John Francis Means (CRD #2263604, Registered Representative, Lutherville, Maryland) 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, Means consented to the described sanction and to the entry of findings that he exercised discretionary power in customers' accounts without obtaining the customers' prior written authorization and his member firm's written acceptance of the accounts as discretionary at the time. The findings stated that Means engaged in excessive and unsuitable trading in the accounts, which resulted in substantial losses. The findings also stated that Means recommended and effected transactions pursuant to, and in furtherance of, a strategy he recommended of engaging in high frequency trading to generate income. The findings also included that Means did not have reasonable grounds for believing that the recommended strategy, and the transactions he recommended in implementing it, were suitable for the customers because the trading strategy involved high transaction costs that over the entire period resulted in an annualized cost-equity ratio of about 35 percent; the trading was done using margin, which exacerbated the high transaction costs; and he recommended that the customers use funds borrowed against their primary residence and a vacation home they owned to engage in the trading activity. FINRA found that in connection with his recommendations, Means failed to disclose to the customers the risks associated with trading on margin and the risks associated with the strategy of engaging in high frequency trading to generate income. (**FINRA Case #2010021910201**)

Kevin Todd Mehlman (CRD #2972511, Registered Representative, Woodland Hills, 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, Mehlman consented to the described sanction and to the entry of findings that he facilitated securities investments away from his member firm and received compensation as a result of the sales. The findings stated that Mehlman, working with others through an entity, distributed secured investment notes in a company to insurance agents who in turn marketed the notes, which were securities. The findings also stated that the entity sold approximately $60 million in the notes and generated more than $6 million

in gross commission revenues from which Mehlman received approximately $430,000 from the sales. The findings also included that the investments were not made through Mehlman's firm and Mehlman did not provide written notice to, or obtain approval from, his firm prior to facilitating the investments. (**FINRA Case #2009018297901**)

Michael James Merendino Jr. (CRD #2664206, Registered Principal, Park Ridge, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Merendino consented to the described sanction and to the entry of findings that he failed to respond to FINRA requests for information and documents. (**FINRA Case #2010025700001**)

Donna Marie Miller (CRD #2822229, Associated Person, Los Angeles, California) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Miller converted $19,736.76 from her member firm. The findings stated that in her capacity as assistant to the branch manager, Miller had authority to request that checks be issued from the branch office general ledger account to pay for branch expenses. The findings also stated that Miller caused checks to be issued off the branch office general ledger to her boyfriend for construction work at the branch that was never performed. The findings also included that each check was created in an amount equal to or less than $500 so that she could authorize the payments without the need for another firm manager's approval.

FINRA found that Miller caused another check to be issued to herself from the branch office general ledger. FINRA also found that Miller reported to branch management that she did not receive her paychecks and obtained replacement checks totaling $1,035.80 from the branch, with the understanding that she would return her paychecks to the branch if she received them; when Miller received her paychecks, she deposited them into her personal account without reimbursing her firm. Moreover, FINRA found that Miller failed to respond to FINRA requests for information and documents. (**FINRA Case #2010021623401**)

David Allen Naefke (CRD #1349960, Registered Representative, Palm Beach Gardens, Florida) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Naefke consented to the described sanction and to the entry of findings that he circumvented his member firm's guidelines regarding investing in illiquid investments by submitting documents, including illiquid investment letters and account information forms, that falsified and exaggerated customers' net worth which in turn permitted investments in amounts that the firm would have otherwise prohibited and that were unsuitable for the affected customers. The findings stated that the firm had internal guidelines that limited the amounts customers were permitted to invest in illiquid investments; the internal policy further stated that illiquid investments for older investors required additional review and consideration pertaining to their needs

for liquidity and income. The findings also stated that Naefke submitted documents that knowingly falsified customers' net worth, causing his firm's books and record to be inaccurate and customers to invest in illiquid investments in amounts that his firm would have otherwise prohibited; and Naefke impeded his firm's ability to adequately supervise the suitability of his recommendations. The finding further stated that on three illiquid investment letters, Naefke falsely stated that a 50-year-old customer's adjusted net worth was $2,000,000, when in fact it was about $150,000; on at least two account information forms, Naefke falsely stated that an 87-year-old customer's net worth was between $1,000,000 and $2,999,999, when, in fact, it was approximately $250,000; and on four illiquid investment letters, Naefke falsely stated that the 87-year-old customer's adjusted net worth was $1,000,100. The findings also included that Naefke recommended and sold illiquid investment interests in publicly registered non-traded real estate investment trusts (REITs), direct participation programs and a limited partnership to customers totaling about $299,000. FINRA found that when Naefke made the recommendations and sales, he did not have reasonable grounds for believing that the recommendations were suitable based on each customer's other security holdings, financial situation and needs. (**FINRA Case #2009016728501**)

Tina Marie Newman (CRD #2547704, Registered Principal, Teaticket, Massachusetts) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Newman converted $10,166.34 by using her member firm's corporate credit cards to pay for a personal vacation and misappropriating her firm's credit card rewards points for her personal use. The findings stated that Newman did not have the firm's permission or consent or the authority to charge her personal vacation to her firm-issued credit cards or appropriate reward points for her own use. The findings also stated that Newman did not inform anyone at her firm or memorialize or otherwise create a record of these charges. The findings also included that Newman reimbursed her firm for the charges but not for the credit card rewards points. FINRA found that Newman intentionally created fictitious and false entries in the firm's books to cover up her conversion of firm funds for her personal benefit. (**FINRA Case #2008011719501**)

Stephen James Nicklas (CRD #5108815, Registered Representative, Roanoke, Virginia) 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, Nicklas consented to the described sanction and to the entry of findings that he misappropriated $4,329.52 from his member firm. The findings stated that Nicklas wrote firm checks payable to himself, forged signatures on the checks and then deposited the checks into his personal trading account. The findings also stated that Nicklas withdrew firm funds, without authorization, from automatic teller machines (ATMs). (**FINRA Case #2010025194301**)

Sammy Gail Page (CRD #1640203, Registered Representative, Spurger, Texas) 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, Page

consented to the described sanction and to the entry of findings that she converted a total of $1,207,440.61 from retail customer brokerage accounts by arranging for transfers of funds from the customers' accounts, by way of one check and automated clearing house (ACH) debits, for payment of a corporate credit card account held in her name, without the customers' authorization. The findings stated that Page provided false information to a Certified Public Accountant (CPA) who was acting on one of her customer's behalf with respect to some of the ACH debits made from that customer's brokerage account totaling $286,330.72, each debit having been made payable to Page's corporate credit card account. The findings also stated that Page told the CPA that the debits were made to fund an outside real estate investment in which she had placed a portion of the customer's investment portfolio. The findings also included that Page fabricated an account statement purportedly demonstrating that the customer had an ownership interest in a particular REIT when no such ownership existed, and faxed the fabricated statement to the CPA. FINRA found that when the CPA sought further information about any dividends arising from the REIT investment, Page falsely explained to the CPA that while dividends were expected, they would not be forthcoming until the following tax year. FINRA also found that by deliberately deceiving one of her customer's appointed representatives in such a fashion, Page, in the conduct of her securities business, failed to observe high standards of commercial honor and just and equitable principles of trade. (**FINRA Case #2011027424501**)

Nicole R. Palumbo (CRD #5416370, Registered Representative, New Windsor, 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, Palumbo consented to the described sanction and to the entry of findings that she activated ATM cards, linked them to bank customer accounts and affected unauthorized ATM withdrawals from the customers' accounts, which totaled approximately $36,895. The findings stated that Palumbo did not have permission or authority from the customers or the bank to link the ATM cards to the customers' accounts or withdraw funds from the accounts. The findings also stated that Palumbo effected a $1,000 direct cash withdrawal from another customer's account without permission or authority from the customer or bank. The findings also included that these transactions did not involve funds from an account held at a FINRA-regulated entity. (**FINRA Case #2010023810201**)

Brian Daniel Parker (CRD #2161106, Registered Principal, Covington, Louisana) 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 Parker's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Parker consented to the described sanctions and to the entry of findings that he failed to provide written notice to his member firm prior to opening a brokerage account with another FINRA member firm and, upon opening the account, failed to advise the executing member firm in writing of his association with his firm. The findings stated that Parker engaged in outside business activities without providing prompt written notice to his firm.

The suspension was in effect from May 16, 2011, through June 14, 2011. (**FINRA Case #2008015729701**)

John Stultz Poland (CRD #4333268, Registered Representative, Fredericksburg, Virginia) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $5,000 and suspended from association with any FINRA member in any capacity for one month. The fine must be paid either immediately upon Poland'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, Poland consented to the described sanctions and to the entry of findings that he allowed a representative of a non-FINRA member insurance company to improperly assist him in completing a state insurance LTC CE exam. The findings stated that the representative sat with Poland for half of the time it took him to complete the exam. The findings also stated that the representative and Poland discussed the topics covered on the exam, and as a result, Poland received assistance on some of the answers on the exam. The findings also included that after completing the exam, Poland completed an exam certification form/declaration of compliance, and despite having received assistance on the exam, he signed the form and inaccurately certified that he completed the exam without assistance from any outside source.

The suspension was in effect from May 23, 2011, through June 22, 2011. (**FINRA Case #2010023613401**)

Thomas Povinelli (CRD #1326492, Registered Principal, Greenwich, Connecticut) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $5,000 and suspended from association with any FINRA member in any capacity for one month. Without admitting or denying the findings, Povinelli consented to the described sanctions and to the entry of findings that he provided inaccurate information on customers' replacement annuity applications. The findings stated that the customers signed the applications in New York, but Povinelli indicated on the applications that they had been signed in Florida. The findings also stated that Povinelli inserted signing dates on the documents that were inaccurate and submitted the applications to the insurance company issuing the annuities. The findings also included that because Povinelli indicated on the applications that the customers had signed the forms in Florida, the customers did not receive the benefit of New York Regulation 60, which would have provided them with a right of rescission of the replacement annuity and reinstatement of the surrendered annuity within 60 days.

The suspension was in effect from June 6, 2011, through July 5, 2011. (**FINRA Case #2009018168301**)

Michael Keith Reynolds (CRD #3080149, Registered Principal, New York, 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 60 days. Without admitting or denying the findings, Reynolds consented to the described sanctions and to

the entry of findings that members of his member firm's branch review group asked him to provide annuity sub-account transfer forms (transfer forms), that another broker in the branch had used, to process annuity sub-account allocation changes for a customer. The findings stated that Reynolds provided transfer forms to a reviewer that appeared to have been signed by the broker and by Reynolds (on the branch office manager line) in January 2009. The findings also stated that the transfer forms Reynolds provided had actually been completed and signed by the broker, at Reynolds request, on or about May 20, 2009, and had not been signed by the broker and Reynolds in January 2009. The findings also included that in response to direct questions, Reynolds falsely told the reviewer that the transfer forms had not been signed in May 2009.

The suspension is in effect from June 6, 2011, through August 4, 2011. (**FINRA Case #2009019001901**)

Al Joseph Romani (CRD #5000071, Registered Principal, Apopka, Florida) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $10,000, suspended from association with any FINRA member in any capacity for 45 days, required to requalify by examination before acting in a FINOP capacity with any FINRA registered broker-dealer, and agreed to continue to cooperate in any investigation or litigation in related matters. The fine must be paid either immediately upon Romani'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, Romani consented to the described sanctions and to the entry of findings that he allowed his member firm to conduct a securities business while failing to maintain its required minimum net capital. The findings stated that Romani, as the firm's FINOP, was responsible for preparing the firm's books and records, net capital calculations and FOCUS reports, and that for almost an entire year, he failed to account for the trading losses in the firm's financial books and records, net capital calculations and FOCUS reports. The findings also stated that Romani also had a responsibility to notify the SEC and FINRA that the firm was not in net capital compliance, but Romani failed to do so. The findings also included that one of Romani's responsibilities as FINOP was to accrue for operating liabilities and loss contingencies both in the firm's financial books and records and to include them in the net capital calculation; Romani failed to accrue for operating liabilities and loss contingencies for one month, and as a result of Romani's failure to accrue for these liabilities, the firm's net capital deficiency was further exacerbated.

FINRA found that Romani prepared incorrect FOCUS reports, net capital calculations, and other books and records that did not reflect net capital deficiencies, including excess net capital according to its FOCUS reports, the unsecured trading debit, the total amount of unaccrued liabilities and the resulting net capital deficiencies. FINRA also found that Romani was required to file an SEC Rule 17a-11 notification of all of these net capital deficiencies on the firm's behalf but failed to make the notifications.

The suspension was in effect from May 16, 2011, through June 29, 2011. (**FINRA Case #2008011684004**)

Frank J. Scarcello III (CRD #5675353, Registered Representative, Camp Verde, Arizona) was barred from association with any FINRA member in any capacity. Scarcello was not ordered to pay restitution to the bank customers because FINRA did not request an order of restitution. The sanction was based on findings that Scarcello effected an online wire transfer of $8,024.54 from a bank customer's account for his personal use and benefit without the customer's authorization or knowledge. The findings stated that Scarcello obtained an ATM card linked to the customer's account and used the card to make withdrawals totaling over $12,000 from the account, using the funds for his personal benefit without the customer's authorization or knowledge. The findings also stated that when the customer discovered the funds were missing and confronted Scarcello, Scarcello executed an unauthorized wire transfer of $20,000 from the line of credit of another bank customer's account to the customer's account, thereby converting approximately $32,000 from two bank customers' funds for his personal benefit. The findings also included that Scarcello failed to respond fully and completely to FINRA requests for information and to appear for an on-the-record testimony. (**FINRA Case #2010021368801**)

Marie Rochelle Sidney (CRD #4600420, Foreign Associate, Mexico DF, Mexico) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Sidney failed to respond to FINRA requests for information and documents. (**FINRA Case #2010025127501**)

Max J. Silberman (CRD #423803, Registered Representative, Orange Village, Ohio) 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, Silberman consented to the described sanction and to the entry of findings that he failed to respond to FINRA requests for information and failed to appear for a FINRA on-the-record interview. (**FINRA Case #2008015360001**)

Prakash Devendranath Simha (CRD #2970036, Registered Representative, Andover, Massachusetts) 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 30 business days. Without admitting or denying the findings, Simha consented to the described sanctions and to the entry of findings that he borrowed approximately $51,000 from customers at his member firm in order to complete renovations on his house. The findings stated that the loans were not reduced to writing and had no repayment terms; the customers had been Simha's friends for many years, and one was his relative. The findings also stated that the firm had a policy prohibiting representatives from borrowing money from customers; one of the loans was repaid before Simha disclosed it to the firm and the other loans have since been forgiven by the customers. The findings also included that Simha sent an email to a former customer requesting a share of the profits that were

made in the customer's account while the account was with the firm. FINRA found that in that email, Simha represented that FINRA was auditing the customer's account, but this was not correct; the client never sent Simha the share of the profits he requested.

The suspension is in effect from June 6, 2011, through July 18, 2011. (**FINRA Case #2009020863401**)

Casey W. Smith (CRD #5303440, Registered Representative, Deer Park, Texas) 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 three months. The fine is immediately due and payable upon Smith's reapplication or association with a FINRA member firm. Without admitting or denying the findings, Smith consented to the described sanctions and to the entry of findings that he improperly accepted $15,300 in cash gifts from a customer and her relative. The findings stated that the customer and her relative gave Smith cash gifts when they visited their safe deposit boxes. The findings also stated that Smith was given and accepted a cash gift during a visit to the customer's home. The findings also included that at the time Smith accepted the gifts, he was aware that the bank's code of conduct where he was employed prohibited employees from accepting gifts from customers. FINRA found that the matter came to light when the customer offered cash to another bank employee after assisting her with her safe deposit box; the employee refused the gift and reported the matter to his supervisor. FINRA also found that when Smith's supervisor questioned him, Smith admitted to accepting gifts from the customer, and his employment was terminated.

The suspension is in effect from June 6, 2011, through September 5, 2011. (**FINRA Case #2009018573101**)

Wendy Rice Stern (CRD #5339410, Registered Representative, Jupiter, Florida) submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Stern consented to the described sanction and to the entry of findings that she charged personal expenses on her corporate credit card totaling approximately $5,200. The findings stated that Stern made approximately $2,700 in payments to the bank affiliate of her member firm for the personal expense which she charged on her corporate credit card. The findings also stated that the bank notified Stern on several occasions about a number of aged items that were charged on the card for which no employee expense reports were submitted by Stern; thereafter, the bank notified Stern that her card was two payments past due and it was being suspended. The findings also included that Stern then admitted that she had made the personal purchases on her corporate credit card. FINRA found that Stern also made a $500 payment to the bank and thus reduced the outstanding amount owed due to her personal use of the corporate card to $1,984. FINRA also found that Stern's employment at her firm and the bank were terminated for improper use of the corporate credit card. (**FINRA Case #2009018870401**)

David Lewis Tieger (CRD #2049406, Registered Representative, San Diego, 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 30 business days. The fine must be paid either immediately upon Tieger'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, Tieger consented to the described sanctions and to the entry of findings that he convinced his junior partner to call an annuity company and impersonate his relative for the purpose of confirming a $275,000 withdrawal from one of the relative's variable annuity contracts. The findings stated that the relative attempted to make a distribution from his variable annuity and after growing frustrated with the withdrawal process, instructed Tieger to take care of it. The findings also stated that after multiple requests, Tieger's junior partner agreed to make the telephone call using the relative's cellular phone, spoke to the annuity company representative and, pretending to be Tieger's relative, asked the representative to process the contract withdrawal. The findings also included that the junior partner answered the representative's questions by reading from a script that Tieger had prepared; Tieger watched the junior partner's call from outside a glass conference room. FINRA found that after Tieger left the office building, the junior partner called the representative back to inform him that he was not the relative and that he had called because someone standing next to him asked him to impersonate the relative.

The suspension was in effect from May 16, 2011, through June 27, 2011. (**FINRA Case #2009018325701**)

Frederick Xavier Veile III (CRD #1111619, Registered Representative, Bethel, Connecticut) submitted a Letter of Acceptance, Waiver and Consent in which he was fined $5,000 and suspended from association with any FINRA member in any capacity for one month. The fine must be paid either immediately upon Veile'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, Veile consented to the described sanctions and to the entry of findings that he borrowed $800 from one of his customers at his member firm. The findings stated that the loan was not reduced to writing and had no repayment terms. The findings also stated that Veile did not disclose this loan to his firm and the firm had a policy prohibiting representatives from borrowing money from customers. The findings also included that Veile paid back the customer after FINRA began its investigation. FINRA found that Veile completed an annual compliance statement for the firm in which he falsely stated that he had not engaged in any prohibited practices, including borrowing from or lending to a client.

The suspension was in effect from June 6, 2011, through July 5, 2011. (**FINRA Case #2009020153401**)

Jose Luis Vinas (CRD #4014454, Registered Representative, Houston, Texas) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Vinas converted approximately $3.3 million from customers, mostly Mexico-based, while he was associated with member firms and served as the registered representative responsible for these customers' brokerage accounts. The findings stated that Vinas asked customers to sign blank documents, including firm documents that were printed in English when none of the customers spoke or read English, but they complied with Vinas' request. The findings also stated that a variable credit line account was opened at Vinas' firm in the customers' name, and Vinas submitted or caused to be submitted applications requesting increases in the credit line that the firm approved, but the customers had not authorized the opening of the credit account or the subsequent credit increases, nor were they aware of the existence of the credit account. The findings also included that Vinas forged, or caused to be forged, customer signatures on Letters of Authorization (LOAs) and had a customer sign blank LOAs, which he submitted to his firm purportedly authorizing the transfer of customer funds without these customers' authorization or knowledge. FINRA found that Vinas submitted, or caused to be submitted, to another member firm fraudulent verbal LOAs without the customers' authorization or knowledge, which allowed him to wire funds from the customers' accounts. In addition, FINRA determined that Vinas presented false account documents to the customers, which reflected fictitious account balances although he had closed the account after taking the last remaining funds from the account. Moreover, FINRA found that Vinas failed to respond to FINRA requests to appear and provide testimony. (**FINRA Case #2009017198901**)

Zulina Visram (CRD #4647327, Registered Principal, Toronto, Canada) submitted a Letter of Acceptance, Waiver and Consent in which she was fined $20,000, of which $10,000 shall be paid jointly to FINRA and The NASDAQ Stock Market LLC, and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Visram's reassociation with a FINRA or NASDAQ 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, Visram consented to the described sanctions and to the entry of findings that, even though she was designated the AML Compliance Officer with the responsibility to monitor and investigate for suspicious activity and to file a SAR if appropriate, she failed to review the trading activity at her member firm for AML purposes because she did not adequately understand SARs or the type of activity that may be considered suspicious and require the filing of SARs. The findings stated that Visram did not consider whether SARs should be filed in her reviews, despite the presence of red flags described in the firm's AML program. The findings also stated that Visram was the designated principal responsible for compliance with NASD Rule 3012, and despite the fact that the firm's only business was executing transactions on behalf of day traders located outside the United States, Visram did not take any steps in connection with yearly reviews to test and verify that the firm's supervisory procedures were reasonably designed to detect and prevent manipulative and

fraudulent trading activity. The findings also included that for one particular year, Visram limited the testing and verification process to test whether a single, existing procedure regarding employees' outside brokerage accounts was being complied with; and for another year, Visram limited the testing and verification process to reviewing certain deficiencies the firm's Director of Finance identified with respect to financial controls and record keeping. FINRA found that in both cases, the narrow scope of Visram's testing and verification process did not comply with the more comprehensive, tailored analysis required by NASD Rule 3012. FINRA also found that for those years, Visram prepared a report for the firm's senior management pursuant to NASD Rule 3012; however, the report did not detail the firm's system of supervisory controls as required.

The suspension is in effect from June 6, 2011, through December 5, 2011. (**FINRA Case #2010021162201**)

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, 2011. The NAC may increase, decrease, modify or reverse the findings and sanctions imposed 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.

Meyers Associates, L.P. (CRD #34171, New York, New York) was fined $50,000. The sanction was based on findings that the firm failed to respond to repeated FINRA requests for information and documents.

The decision has been appealed to the National Adjudicatory Council (NAC) and the sanction is not in effect pending consideration of the appeal. (**FINRA Case #2009017775601**)

Nolan Wayne Moore (CRD #3237722, Registered Representative, Beaumont, California) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Moore failed to appear for a FINRA on-the-record interview. The findings stated that Moore engaged in outside business activities with several of his customers without notifying his member firm of these activities. The findings also stated that Moore did not respond timely to FINRA requests for information and documents.

Moore has appealed the decision to the NAC and the sanction is not in effect pending the appeal. (**FINRA Case #2008015105601**)

Steven Mark Spektor (CRD #4743058, Registered Representative, Las Vegas, Nevada) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Spektor converted $2,296.34 of insurance premiums paid by customers of his member firm's affiliated insurance company for his personal benefit; Spektor was an independent contractor with his firm and the affiliate. The findings stated that Spektor failed to respond to FINRA requests for information and to provide testimony.

Spektor has appealed the decision to the NAC and the sanction is not in effect pending the appeal. (**FINRA Case #2009019225401**)

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.

Harry Friedman (CRD #2548017, Registered Principal, Woodmere, New York) was named as a respondent in a FINRA complaint alleging that he presided over a fraudulent trading scheme through which his member firm's then CCO and head trader concealed improper markups and denied customers best execution. The complaint alleges that the trading scheme was perpetrated in customer accounts that were serviced through the firm's OSJs, of which Friedman was responsible for their supervision. The complaint also alleges that the trading scheme took advantage of large orders (generally 1,000 shares or more) to buy or sell equities that were placed for the OSJs' customers; rather than effecting the trades in the customers' account, the CCO placed the orders in firm principal accounts where he would then increase or decrease the price before ultimately allocating the shares or proceeds to the customers' accounts. In addition, the complaint alleges that the firm then charged a commission or markup/markdown, which was disclosed, in addition to the undisclosed price adjustment per share and in furtherance of the fraudulent trading scheme, and the CCO entered false information on the corresponding order tickets regarding the share price and the time the customer order tickets were received, entered and executed. Moreover, the complaint alleges that Friedman was required to review the trading activity, scrutinize the order tickets, evaluate the transactions for best execution, and monitor the firm's principal accounts; such a review would have revealed these fraudulent transactions and the fraudulent trading scheme. Furthermore, the complaint alleges that Friedman received a 20 percent share of the profits generated through the fraudulent trading scheme; Friedman was aware of the fraudulent transactions or was reckless in disregarding the information he had about the transactions. The complaint also alleges that Friedman permitted the CCO to continue the trading scheme for nearly three years and generated approximately $1.3 million in profits for the firm's proprietary account; the profits were improperly taken from the customers' brokerage accounts and the firm's customers did not receive the most favorable market price because Friedman permitted the CCO to interject the firm's proprietary account between the customer and market.

The complaint further alleges that Friedman was responsible for ensuring that the head trader accurately disclosed on the order tickets the time that the customer orders were received and executed, the capacity in which the broker-dealer acted and the amount of compensation the broker-dealer received from the transaction, but in furtherance of the fraudulent trading scheme, the CCO entered false information on the order tickets and

Friedman knew or was reckless in not knowing that the order tickets were mismarked; the order tickets were inaccurate in that they did not reflect that the firm had paid itself a markup or include the proper commission, and contained inaccurate information related to the share price, the time the customer order tickets were received, entered and executed, and the order capacity. In addition, the complaint alleges that Friedman failed to enforce WSPs to supervise the activities of each registered person that were reasonably designed to achieve compliance with the applicable rules and regulations with respect to trading activity of all registered representatives of its OSJs, and failed to perform the required reconciliation of daily positions and trades in the firm's principal accounts; according to Friedman, his only form of supervisory review was to examine the previous day's trade blotter. Moreover, the complaint alleges that the firm, acting through Friedman, failed to establish, maintain and enforce a system of supervisory control policies and procedures that tested and verified that its supervisory procedures were reasonably designed with respect to the activities of the firm and its registered representatives and associated persons to achieve compliance with applicable securities laws and regulations; and created additional or amended supervisory procedures where the need was identified by such testing and verification.

Furthermore, the complaint also alleges that among other things, Friedman and another designated principal failed to submit to the firm's senior management reports that detailed its system of supervisory controls, the summary of the test results and significant identified exceptions, and any additional or amended supervisory procedures created in response to the test results. The complaint also alleges that, in each of those years, Friedman falsely certified that the firm had the requisite processes in place and that those processes were evidenced in a report its CEO, CCO and other officers reviewed. The complaint further alleges that the firm, acting through Friedman, failed to conduct a test of its supervisory procedures for one year and although the firm conducted some limited testing in other years, that testing was deficient in that the firm failed to evaluate, and Friedman failed to enforce, several aspects of its written compliance policies and written supervisory procedures. In addition, the complaint alleges that Friedman failed to establish written supervisory control policies and procedures reasonably designed to provide heightened supervision over the activities of each producing manager who was responsible for generating 20 percent or more of the revenue of the business units supervised by the producing manager's supervisor and, as a result, the firm did not determine whether it had any such producing managers and, to the extent that it did, subject those managers to heightened supervision. (**FINRA Case #2009016405903**)

Michael Ray Howard (CRD #3113620, Registered Principal, Afton, Oklahoma) was named as a respondent in a FINRA complaint alleging that he recommended to his customer the purchase of a $500,000 variable annuity that was unsuitable because he knew that the customer did not have sufficient financial resources to purchase the annuity without using borrowed funds, and that all of the funds used to purchase the recommended annuity were proceeds of a loan secured in part by the annuity itself. The complaint alleges that Howard did not have a reasonable basis for believing that his recommendation to the customer was suitable in light of her financial circumstances and needs, exceeded her financial capability and exposed her to risks. The complaint also alleges that Howard received $38,526.86 in commission for his sale of the variable annuity to the customer. The complaint further alleges that Howard completed the account documents and paperwork for the customer's purchase of the variable annuity including the variable annuity questionnaire with false information about the financial situation of the customer's trust to his member firm, and the firm retained the document in its records. In addition, the complaint alleges that because of the falsified questionnaire, Howard caused the firm's books and records to be inaccurate and impeded supervision of the annuity sale. (**FINRA Case #2008012282901**)

Frederick William Shultz (CRD #5239977, Registered Representative, Newburg, Indiana) was named as a respondent in a FINRA complaint alleging that he failed to give prompt written notice to his member firm that he was being compensated for participating in the management of a limited liability company. The complaint alleges that Shultz participated in each sale of the company's securities effected by representatives of his firm and made the Regulation D filing with the SEC for its sale of securities, processed customer funds received from the sale of securities and invested the funds; and kept, and in most cases signed, the subscription agreements and other offering documents. The complaint also alleges that Shultz failed to give written notice of his intention to participate in the sale of the company's securities to his firm. The complaint further alleges that Shultz failed to ensure that the sales of shares in which he participated and totaled approximately $600,311 were recorded on his firm's books and records, thereby causing his firm's books and records to be inaccurate in contravention of FINRA Rule 3110 and SEC Exchange Act Rule 17a-3. In addition, the complaint alleges that Shultz completed and signed a firm-issued outside business interest schedule that requested an identification of all outside business activities without disclosing his involvement with the limited liability company; on a later schedule, Shultz falsely disclosed that the company was in the planning stages when it was, in fact, an active, ongoing business. Moreover, the complaint alleges that Shultz maintained the company's checking account. Furthermore, the complaint alleges that customers deposited a total of $374,500 into the checking account to be invested in a fund and Shultz, without the customers' knowledge or consent, misused the funds by not investing them and by making "distributions of profits" totaling $147,000 to a company he controlled with others. The complaint also alleges that Shultz failed to respond to FINRA requests to appear for an on-the-record interview. (**FINRA Case #2009019837302**)

Firm Cancelled for Failure to Meet Eligibility Standards Pursuant to FINRA Rule 9555

Quantum Securities, Inc. (CRD #130224)
Boca Raton, Florida
(May 12, 2011)

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

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

Doley Securities, LLC (CRD #7081)
New Orleans, Louisiana
(May 9, 2011 – June 23, 2011)

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

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

Alternative Wealth Strategies, Inc. (CRD #130933)
Cherry, Hill, New Jersey
(May 19, 2011)
FINRA Arbitration Cases #09-07084/10-04661/10-05077/10-03879/10-04745

Morgan Wilshire Securities, Inc. (CRD #44807)
Garden City, New York
(May 23, 2011 – May 24, 2011)
FINRA Arbitration Case 10-03241

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.)

Jeffrey Jon Anderson (CRD #4326656)
Eagle River, Wisconsin
(May 10, 2011)
FINRA Case #2010023004101

Janie Cabreja (CRD #5741403)
Monroe, New York
(May 11, 2011)
FINRA Case #2010022533501)

Norman Chen (CRD #5770952)
San Francisco, California
(May 26, 2011)
FINRA Case #2010024311701

Ray Gayland Crocker (CRD #1099643)
Monroe, North Carolina
(May 17, 2011)
FINRA Case #2010021451201

Daniel Todd Engel (CRD #2145822)
Dana Point, California
(May 6, 2011)
FINRA Case #2009020117601

Michele Eileen Fanner (CRD #4991783)
Altadena, California
(May 26, 2011)
FINRA Case #2010024740601

Natalie Dee Gastelum (CRD #4938959)
Valley Village, California
(May 26, 2011)
FINRA Case #2010023889601

Shamel Correen Gould (CRD #5799015)
Savannah, Georgia
(May 13, 2011)
FINRA Case #2010024194301

Mary A. Griswold (CRD #5731542)
Pawtucket, Rhode Island
(May 17, 2011)
FINRA Case #2010022511401

Christopher M. Harper (CRD#5102738)
Redondo Beach, California
(May 16, 2011)
FINRA Case #2010022263301

Randol Craig Key (CRD #4262407)
Houston, Texas
(May 31, 2011)
FINRA Case #2009020096001

Miriam L. Lopez (CRD #4560263)
Rio Rico, Arizona
(May 2, 2011)
FINRA Case #2010024009101

William E. Olivares (CRD #5052733)
Brooklyn, New York
(May 4, 2011)
FINRA Case #2009020698401

Corey Peterson (CRD #5289024)
Gilbert, Arizona
(May 4, 2011)
FINRA Case #2009018805301

Thomas Edward Smith Jr. (CRD #1943167)
Montgomery Center, Tennessee
(May 16, 2011)
FINRA Case #2010022044601

Mitchell A. Steitz (CRD #4928430)
Cashmere, Washington
(May 12, 2011)
FINRA Case #2010023415501

David Wayne Voteau (CRD #4335263)
Lafayette, Indiana
(May 26, 2011)
FINRA Case #2010025112701

Robert Lee Wagner (CRD #4118105)
Bloomington, Indiana
(May 26, 2011)
FINRA Case #2010022203401

William James Walker (CRD #1771777)
Summerville, South Carolina
(May 16, 2011)
FINRA Case #2010021442401

Edward Allen Watson (CRD #2700411)
Garland, Texas
(May 4, 2011)
FINRA Case #2010022906601

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.)

Anthony Joseph DiGiovanni Jr. (CRD #4787615)
East Hanover, New Jersey
(May 3, 2011)
FINRA Case #2007008724801

William Howard Irving (CRD #1541064)
(May 24, 2011)
Duxbury, Massachusetts
FINRA Case #2009017856601

Randall Walter Hess (CRD #1002380)
Omaha, Nebraska
(May 11, 2011)
FINRA Case #2007008310201

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.)

Dov Berr Appleman (CRD #3201421)
Oceanside, New York
(March 3, 2011 – May 13, 2011)
FINRA Case #2010023908001

Michael Glenn Baker (CRD #2215803)
Manchester, Missouri
(May 9, 2011)
FINRA Case #2009018224901

Alexandru Aureliu Calin (CRD #1263189)
Los Angeles, California
(May 20, 2011)
FINRA Case #2010023589001

Joseph Chan (CRD #5364607)
Miami, Florida
(May 2, 2011)
FINRA Case #2011026237701

John Michael Chapman (CRD #5443581)
Philadelphia, Pennsylvania
(March 10, 2011 – May 25, 2011)
FINRA Case #2010023968501

Rebekkah Warburton Ferrell (CRD #5447027)
Roanoke, Virginia
(May 19, 2011)
FINRA Case #2010023472501

Lawrence Wayne Foster (CRD #2734837)
Henderson, Nevada
(May 19, 2011)
FINRA Case #2010021445101

Gabriel R. Fuller (CRD #5207638)
Frisco, Texas
(May 9, 2011)
FINRA Case #2010025091101

Mary Kathleen Goodall (CRD #4456106)
San Antonio, Texas
(May 16, 2011)
FINRA Case #2010022907701

Arthur Leroy Heffelfinger (CRD #2168013)
East Helena, Montana
(May 16, 2011)
FINRA Case #2009019862701

Tae J. Kim (CRD #5289242)
Palisades Park, New Jersey
(November 12, 2010 – May 25, 2011)
FINRA Case #2010023067601

James Ryan Lanier (CRD #4702771)
Tallahassee, Florida
(May 5, 2011)
FINRA Case #2010022652201

Paul Joseph Lumetta (CRD #5862603)
O'Fallon, Missouri
(May 23, 2011)
FINRA Case #2011026019401

Piotr Makuch (CRD #4916228)
Hempstead, New York
(May 31, 2011)
FINRA Case #2010023830901

Joseph Vincent Massaro (CRD #5195215)
Port Jefferson, New York
(January 24, 2011 – May 25, 2011)
FINRA Case #2010022427701

Cesar Mendivil (CRD #5104008)
Dallas, Texas
(May 20, 2011)
FINRA Case #2010025344301

James Gregory Shaw (CRD #2221056)
Glenelg, Maryland
(May 31, 2011)
FINRA Case #2009016774101

Quynh Thi Tran (CRD #3105373)
King of Prussia, Pennsylvania
(May 16, 2011)
FINRA Case #2009020620601

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

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

Walker Randolph Johnson (CRD #4405133)
Sherman Oaks, California
(May 18, 2011)
FINRA Arbitration Case #10-03033

Priscilla Ann Jones (CRD #4811548)
Griffin, Georgia
(May 18, 2011)
FINRA Arbitration Case #10-03979

Kenneth John Marchiol (CRD #1914305)
Aurora, Colorado
(May 18, 2011)
FINRA Arbitration Case #09-00830

Luis Emilio Morales Jr. (CRD #3262932)
San Francisco, California
(May 18, 2011)
FINRA Arbitration Case #10-04089

Lance Kelly Morque (CRD #1915939)
Minneapolis, Minnesota
(May 18, 2011)
FINRA Arbitration Case #09-01670

William Brown Park (CRD #2073037)
Houston, Texas
(May 18, 2011)
FINRA Arbitration Case #09-07231

Christopher Joseph Perrott (CRD #4188299)
St. Cloud, Florida
(May 18, 2011)
FINRA Arbitration Case #10-00260

Ralph Roberts Schneider (CRD #1837062)
Okoboji, Iowa
(May 18, 2011)
FINRA Arbitration Case #09-06559

Justin David Silberman (CRD #4244487)
Fairfax, Virginia
(May 18, 2011)
FINRA Arbitration Case #10-01184

Attila Gyula Toth (CRD #2565633)
Phoenix, Arizona
(May 18, 2011)
FINRA Arbitration Case #09-07065

FINRA Fines Wells Fargo Advisors $1 Million for Delays in Delivering Prospectuses to More Than 900,000 Customers

Firm Also Delayed Reporting Required Information Regarding its Brokers

The Financial Industry Regulatory Authority (FINRA) has fined Wells Fargo Advisors, LLC of St. Louis, $1 million for its failure to deliver prospectuses in a timely manner to customers who purchased mutual funds in 2009, and for delays in reporting material information about its current and former representatives, including arbitrations and complaints involving its representatives.

FINRA found that Wells Fargo failed to deliver prospectuses within three business days of the transaction, as required by federal securities laws, to approximately 934,000 customers who purchased mutual funds in 2009. The customers received their prospectuses from one to 153 days late. Wells Fargo had failed to take corrective measures to ensure timely delivery of the prospectuses after its third-party service provider, which Wells Fargo contracted with to mail prospectuses to customers, provided the firm with regular reports indicating that a number of customers had not received the prospectuses on time.

Brad Bennett, FINRA Executive Vice President and Chief of Enforcement, said, "Mutual fund prospectuses contain key information about a fund's performance, risks, strategies and costs. Wells Fargo ignored reports alerting them to serious problems with its prospectus delivery system and, as a result, its customers were deprived of valuable information needed to make informed investment decisions."

Wells Fargo contracted with a third-party service provider in 2009 to mail the prospectuses to customers. However, after receiving quarterly reports showing that between four percent and nine percent of the firm's mutual fund customers failed to receive required prospectuses on time and after being notified in daily reports that a number of prospectuses still required delivery, Wells Fargo did not take adequate corrective measures to ensure future delivery of the prospectuses in a timely manner.

FINRA also found that Wells Fargo did not promptly report required information to FINRA regarding its current or former representatives. Under FINRA rules, a securities firm must ensure that information on its representatives' applications for registration (Forms U4) is kept current in FINRA's Central Registration Depository (CRD). A firm must also ensure that it updates a representative's termination notice (Form U5) after the representative leaves the firm. These forms must be updated within 30 days of the firm learning that a significant event has occurred—including notification of a formal investigation, customer complaints or arbitrations filed against the representative. FINRA found that from July 1, 2008, to June 30, 2009, Wells Fargo failed to update 8.1 percent of their Forms U4 and 7.6 percent of the Forms U5 on time. In total, Wells Fargo filed nearly 190 late amendments to Forms U4 and U5.

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

FINRA Fines Nuveen $3 Million for Use of Misleading Marketing Materials Concerning Auction Rate Securities

Brochures Failed to Disclose Risks Arising From Events in Early 2008

The Financial Industry Regulatory Authority (FINRA) has fined Nuveen Investments, LLC, of Chicago, $3 million for creating misleading marketing materials used in sales of auction rate preferred securities (ARPS).

The Nuveen Funds' ARPS were a form of auction rate securities, which are long-term securities with interest rates or dividend yields that are reset periodically through an auction process. In contrast to other types of auction rate securities, the Nuveen ARPS were preferred shares issued by closed end mutual funds to raise money for the funds to use to invest.

By early 2008, over $15 billion of Nuveen Funds' ARPS had been sold to retail customers by third-party broker-dealers. Nuveen did not sell the ARPS to customers, but in its role as distributor for Nuveen Funds, it created marketing brochures that were used by the broker-dealers who sold the ARPS to retail customers. The brochures were the primary sales and marketing material Nuveen created for the auction rate preferred securities. FINRA found that the brochures, also available on Nuveen's website, failed to adequately disclose liquidity risks for ARPS. Nuveen neglected to include the risks that auctions for the ARPS could fail, investments could become illiquid and that customers might be unable to obtain access to funds invested in the ARPS for a period of time should the auctions fail. Instead, the brochures contained misleading statements which described the ARPS as safe and liquid investments. Also, FINRA found that Nuveen failed to maintain adequate supervisory procedures to ensure that the materials it used to market the auction rate preferred securities accurately described the features and risks of the securities.

Nuveen failed to revise disclosures in their brochures after a lead auction manager responsible for approximately $2.5 billion of the ARPS notified Nuveen in early January 2008 that it intended to stop managing Nuveen auctions. On January 22, 2008, the lead manager did not submit support bids in an auction for a series of Nuveen auction rate preferred stock and that auction failed. FINRA found that the auction failure and Nuveen's inability to find a replacement for the lead manager raised serious questions for Nuveen about whether investors in Nuveen's ARPS would be able to obtain liquidity for the securities in future auctions. Despite this, Nuveen failed to revise its marketing brochures to reflect these risks and, thus, the brochures were misleading. In February 2008, widespread auction failures occurred throughout the auction rate securities market, including auctions for Nuveen funds ARPS.

Brad Bennett, FINRA Executive Vice President and Chief of Enforcement, said, "Nuveen was aware of facts that raised significant red flags about the ability of investors to obtain liquidity for their Nuveen auction rate securities yet failed to revise their marketing brochures to disclose these risks. This failure deprived investors of important information."

To date, the Nuveen funds have redeemed approximately $14.2 billion of the $15.4 billion of the ARPS that were outstanding on February 12, 2008. As part of the settlement, Nuveen agreed to use its best efforts to effect redemptions of any remaining outstanding Nuveen funds ARPS.

Nuveen neither admitted nor denied the charges, but consented to the entry of FINRA's findings.

FINRA Fines Credit Suisse Securities $4.5 Million and Merrill Lynch $3 Million for Misrepresentations Related to Subprime Securitizations

The Financial Industry Regulatory Authority (FINRA) has fined Credit Suisse Securities (USA) LLC $4.5 million, and Merrill Lynch $3 million for misrepresenting delinquency data and inadequate supervision in connection with the issuance of residential subprime mortgage securitizations (RMBS).

Issuers of subprime RMBS are required to disclose historical performance information for past securitizations that contain mortgage loans similar to those in the RMBS being offered to investors. Historical delinquency rates are material to investors in assessing the value of RMBS and in determining whether future returns may be disrupted by mortgage holders' failures to make loan payments. As there are different standards for calculating delinquencies, issuers are required to disclose the specific method it used to calculate delinquencies.

FINRA found that in 2006, Credit Suisse misrepresented the historical delinquency rates for 21 subprime RMBS it underwrote and sold. Although Credit Suisse knew of these inaccuracies, it did not sufficiently investigate the delinquency errors, inform clients who invested in these securitizations of the specific reporting discrepancies or correct the information on the website where the information was displayed. Credit Suisse also failed to name or define the methodology used to calculate mortgage delinquencies in five other subprime securitizations. Additionally, Credit Suisse failed to establish an adequate system to supervise the maintenance and updating of relevant disclosure on its website.

For six of the 21 securitizations, the delinquency errors were significant enough to affect an investor's assessment of subsequent securitizations, as it was referenced in four subsequent RMBS investments.

In a separate case, FINRA found that Merrill Lynch negligently misrepresented the historical delinquency rates for 61 subprime RMBS it underwrote and sold. However, in June 2007, after learning of the delinquency errors, Merrill Lynch promptly recalculated the information and posted the corrected historical delinquency rates on its website. Merrill Lynch also failed to establish a reasonable system to supervise and review its reporting of historical delinquency information. On January 1, 2009, Merrill Lynch was acquired by Bank of America, but the firm continues to do brokerage business under its own individual broker-dealer registration.

In eight instances, the delinquencies were significant enough to affect an investor's assessment of subsequent securitizations, as it was referenced in five subsequent RMBS investments.

Brad Bennett, FINRA Executive Vice President and Chief of Enforcement, said, "Firms must provide accurate information about the products they offer so that their customers can make informed investment decisions. Credit Suisse and Merrill Lynch failed to monitor and supervise the reporting of historical delinquency rates, depriving investors of information essential to assessing the profitability of mortgage-backed investments."

In settling this matter, Credit Suisse and Merrill Lynch neither admitted nor denied the charges, but both broker-dealers consented to the entry of FINRA's findings.

FINRA Charges David Lerner & Associates With Soliciting Investors to Purchase REITs Without Fully Investigating Suitability; Lerner Marketed REITs on its Website With Misleading Returns

The Financial Industry Regulatory Authority (FINRA) announced that it has filed a complaint against David Lerner & Associates, Inc. (DLA), of Syosset, NY, charging the firm with soliciting investors to purchase shares in Apple REIT Ten, a non-traded $2 billion Real Estate Investment Trust (REIT), without conducting a reasonable investigation to determine whether it was suitable for investors, and with providing misleading information on its website regarding Apple REIT Ten distributions. DLA has sold and continues to sell Apple REIT Ten targeting unsophisticated and elderly customers with unsuitable sales of the illiquid security.

Since January 2011, as sole underwriter for Apple REIT Ten, DLA has sold over $300 million of an open $2 billion offering of the REIT's shares. Apple REIT Ten invests in the same extended stay hotel properties as a series of other Apple REITs closed to investors. Apple REIT Ten and the closed Apple REITs were founded by the same individual, and are all under common management. DLA has been the sole underwriter for Apple REITs since 1992, selling nearly $6.8 billion of the securities into approximately 122,600 DLA customer accounts. DLA earns 10 percent of all offerings of Apple REIT securities as well as other fees. Apple REIT sales have generated $600 million for DLA, accounting for 60 to 70 percent of DLA's business annually since 1996.

The complaint against DLA alleges that since at least 2004, the closed Apple REITs have unreasonably valued their shares at a constant price of $11 notwithstanding market fluctuations, performance declines and increased leverage, while maintaining outsized distributions of 7 to 8 percent by leveraging the REITs through borrowings and returning capital to investors. As sole distributor, DLA did not question the Apple REITs' unchanging valuations despite the economic downturn for commercial real estate.

FINRA alleges that DLA failed to sufficiently investigate the valuation and distribution irregularities of the closed Apple REITs prior to selling Apple REIT Ten. As the sole underwriter of all of the Apple REITs, DLA was aware of the Apple REITs' valuation and distribution practices. Rather than conduct due diligence into those valuations and distribution irregularities to determine that they were reasonable and that the Apple REITs were suitable, DLA accepted the valuations and continued to record them on customer account statements.

In its solicitation of customers to purchase Apple REIT Ten, DLA's website provided distribution rates for all of the previous Apple REITs. These distribution figures were misleading and omitted material information because they did not disclose recent distribution rate reductions or that distributions far exceeded income from operations and were funded by debt that further leveraged the REITs.

The issuance of a disciplinary complaint represents the initiation of a formal proceeding by FINRA in which findings as to the allegations in the complaint have not been made, and does not represent a decision as to any of the allegations contained in the complaint. Under FINRA rules, a firm or individual named in a complaint can file a response and request a hearing before a FINRA disciplinary panel. Possible remedies include a fine, censure, suspension or bar from the securities industry, disgorgement of gains associated with the violations and payment of restitution.