

Disciplinary and Other FINRA Actions

Firms Fined, Individuals Sanctioned

Dawson James Securities, Inc. (CRD® #130645, Boca Raton, Florida), Albert James Poliak (CRD #1270681, Registered Principal, Parkland, Florida), and Douglas Fulton Kaiser (CRD #1674570, Registered Principal, Deerfield Beach, Florida) submitted Offers of Settlement in which the firm was censured and fined \$90,000. Poliak, Dawson's CEO, and Kaiser, who acted at times as both the firm's head of trading and the Financial and Operations Principal (FINOP), were each fined \$30,000 and suspended from association with any FINRA®-regulated broker-dealer in any capacity for one year. Without admitting or denying the allegations, Dawson, Poliak and Kaiser consented to these sanctions and to the entry of findings that the firm entered into a de facto commission recapture agreement with a firm customer without meeting the minimum required net capital of \$250,000 and without filing an application for amendment of the firm's FINRA membership agreement.

The findings stated that the firm and a customer entered into a consulting agreement whereby the customer was to provide research and advisory services. However, the firm did not request, nor did the customer provide, research reports or advisory services or any of the other services set forth in the consulting agreement. Moreover, the firm paid the customer a total of \$1,215,000, which exceeded by \$885,000 the payments due to the customer per the contractual requirements under the consulting agreement. The payments exceeded the contractual requirements of the consulting agreement because the agreement was a de facto commission recapture arrangement through which the customer was paid larger amounts based upon the level of security transactions the customer was executing in its brokerage account at the firm.

The findings also stated that Poliak was responsible for the creation of the consulting agreement and approved each wire transfer payment to the customer, including the payments that were in excess of amounts due to the customer under the consulting agreement. The findings also included that Kaiser was responsible for calculating the payments owed to the customer and that he pulled research concerning the customer's trades in an effort to document the consulting agreement, but the firm was unable to document its use of the purported research or other financial benefit arising from the consulting agreement. Poliak and Kaiser acted unethically in that they facilitated the improper commission recapture arrangement between the firm and customer, and caused the firm to fail to comply with the requirement of NASD® Rule 1017.

Reported for December 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).

In addition, FINRA found that the firm, acting through Poliak and Kaiser, violated the Customer Protection Rule in several ways. First, in connection with the commission recapture agreement described above, the firm held, or was in control of, customer funds without establishing a special reserve bank account for the exclusive benefit of the customer in violation of Securities Exchange Act Rule 15c3-3. By holding customer funds and failing to forward the funds to its clearing firm, the firm became a broker or dealer that receives and holds funds for customers, which required it to increase its net capital and establish a reserve bank account for customer protection. Second, after a commission recapture agreement was ultimately established for the customer by the firm's clearing firm, the firm deposited into its own checking account a check from the clearing firm which included at least \$136,700 in commission rebates due to the customer. Rather than record a liability to the customer, the firm made a journal entry to reduce the commission receivable. The firm's receipt of customer funds increased its minimum net capital to \$250,000, a level that the firm did not meet. Third, the firm held and segregated security positions in its proprietary account for the benefit of two customers in order to satisfy the obligation of promissory notes and a confidential private placement memorandum (PPM). Fourth, the firm acted in the capacity of a noteholder's agent to facilitate the repayment to firm customers of \$2,715,000 of principal plus interest on defaulted notes and warrants issued by an unaffiliated issuer. By doing so, the firm acted in a carrying, transferring and safekeeping capacity for customers, which required the firm to maintain a minimum net capital of at least \$250,000. The firm's net capital was below that required minimum, and as a result the Financial and Operational Combined Uniform Single (FOCUS™) reports it filed, and its books and records, were inaccurate. The firm also failed to timely file Securities and Exchange Commission (SEC) Rule 17a-11 notices when notified by its designated examining authority that the broker-dealer's net capital was, or had been, below its minimum requirement.

Kaiser, when acting in the capacity as the firm's FINOP, was responsible for supervision and/or performance of the firm's compliance under all financial responsibility rules promulgated pursuant to provisions of the Securities Exchange Act of 1934. Kaiser failed to adequately perform his FINOP responsibilities in that he failed to take adequate steps to ensure the accuracy of the firm's net capital calculations. In addition, as Poliak participated in the firm's holding of customer funds in violation of Rule 15c3-3, Poliak caused the firm's net capital and books and records violations.

FINRA also determined that the firm's compensation committee did not document the basis upon which a research analyst's compensation was established, thus failing to establish a written record of whether specific factors required by NASD Rule 2711 were properly considered, and whether research analyst compensation was tied to any investment banking activities. Moreover, FINRA found that a senior officer at the firm inaccurately represented in required attestations submitted to FINRA that the compensation committee documented the basis upon which each research analyst's compensation was established. The senior officer should have known that each attestation submitted contained false information. Furthermore, FINRA found that the firm sold

securities for customer accounts that were not registered pursuant to Section 5 of the Securities Act of 1933, nor exempt from registration; the sales constituted an unregistered distribution by the firm.

Kaiser's and Poliak's suspensions are in effect from November 7, 2011, through November 6, 2012. ([FINRA Case #2009016158501](#))

Institutional Capital Management, Inc. (CRD #41055, Houston, Texas) and Daniel Lee Ritz Jr. (CRD #1977521, Registered Principal, Katy, Texas) submitted a Letter of Acceptance, Waiver and Consent in which the firm was fined \$65,000 and Ritz was suspended from association with any FINRA member in any principal capacity for four months. In light of Ritz' financial status, no monetary sanction was imposed. Without admitting or denying the findings, the firm and Ritz consented to the described sanctions and to the entry of findings that the firm permitted registered persons assigned to a branch office to utilize outside email accounts to conduct firm business, even though the firm did not have a system or procedure in place to capture, preserve and monitor those emails; consequently, the firm failed to preserve all firm-related email communications of registered persons assigned to that branch as required. The findings stated that the firm failed to perform any supervisory review of email communications of registered persons assigned to that branch, and that Ritz permitted a firm registered representative to engage in investment advisory activity through the representative's state-registered investment advisor (RIA) and failed to supervise that activity. Ritz was the principal responsible for supervising the representative, but failed to supervise any facet of his investment advisory business and was generally unaware of what it entailed. The findings also stated that as a result of Ritz' lack of supervision, the representative was able to engage in extensive selling-away misconduct without the firm's detection, raising more than \$5 million from investors through sales of promissory notes without the firm's knowledge. The findings also included that the firm failed to obtain all required information for some customers who purchased securities through the firm in private placement offerings.

The suspension is in effect from November 21, 2011, through March 20, 2012. ([FINRA Case #2010022679801](#))

Internet Securities (CRD #102800, Oakland, California) and Michael Wayne Beardsley (CRD #2546470, Registered Principal, Oakland, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$12,500 and required to retain an outside consultant to review and prepare a report concerning the adequacy of the firm's supervisory, and compliance policies and procedures, and supervisory controls; the report shall make specific recommendations addressing any inadequacies the consultant identifies, and the firm shall act on those recommendations. FINRA imposed a lower fine after it considered the firm's size, including, among other things, the firm's revenues and financial resources. Beardsley was suspended from association with any FINRA member in any principal capacity for one year. In light of Beardsley's financial status, no monetary sanction has been imposed.

Without admitting or denying the findings, the firm and Beardsley consented to the described sanctions and to the entry of findings that Beardsley was a registered representative's direct supervisor who was responsible for reviewing and approving the representative's securities transactions, but failed to exercise reasonable supervision over the representative's recommendations of exchange-traded funds (ETFs) in customers' accounts, thereby allowing the representative to conduct numerous unsuitable transactions. The findings stated that as the firm's chief compliance officer (CCO), Beardsley was responsible for ensuring that the firm filed all necessary Uniform Applications for Securities Industry Registration or Transfer (Forms U4), Uniform Termination Notices for Securities Industry Registration (Forms U5) and Rule 3070 reports. The findings also stated that the firm and Beardsley failed to timely amend Beardsley's Form U4 to disclose the settlement of an arbitration against him, the firm and the registered representative; the firm failed to timely amend a registered representative's Form U5 to disclose settlement of the arbitration; and the firm and Beardsley failed to timely report the settlement to FINRA's 3070 system. The findings also included that the firm and Beardsley failed to establish and maintain a supervisory system reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules as they pertain to private placements. The firm and Beardsley failed to conduct investigations of offerings for suitability but relied on information the registered representative who proposed selling the offering provided; never reviewed issuers' financials, nor attempted to obtain information about the issuers from any third parties; failed to maintain documentation of their investigations; allowed a registered representative to draft selling agreements with offerings which allowed the issuer to make direct payment to an entity the representative, not the firm, owned; failed to implement supervisory procedures to ensure compliance with SEC Exchange Act Rule 15c2-4(b); and failed to implement supervisory procedures to prevent general solicitation of investments in connection with offerings made pursuant to Regulation D.

FINRA found that the firm's written procedures required Beardsley to obtain and review, on at least an annual basis, a written statement from each registered representative about his or her outside business activities; despite the fact that several registered representatives were actively engaged in outside business activities, Beardsley failed to obtain any such written statements. FINRA also found that for almost a three-year period, Beardsley did not request any duplicate statements of outside securities accounts firm employees held; he neither requested nor obtained any written notifications from firm employees concerning their actual or anticipated outside securities activities. In addition, FINRA determined that the firm and Beardsley failed to implement an adequate system of supervisory control policies and procedures regarding testing supervisory procedures for compliance, erroneous criteria for identifying and supervising producing managers, including Beardsley, review and monitoring transmittal of funds or securities, customer changes of address, customer changes of investment objectives, and concomitant documentation for its limited size and resources exception in FINRA Rule 3012. Moreover, FINRA found that the firm and Beardsley

completed an annual certification in which Beardsley certified that he had reviewed a report evidencing the firm's processes for establishing, maintaining and reviewing policies and procedures reasonably designed to achieve compliance with applicable FINRA rules, Municipal Securities and Rulemaking Board (MSRB) rules and federal securities laws and regulations; modifying such policies and procedures as business, regulatory and legislative changes and events dictate; and testing the effectiveness of such policies and procedures on a periodic basis, the timing and extent of which is reasonably designed to ensure continuing compliance with FINRA rules, MSRB rules and federal securities laws and regulations. In fact, the report did not evidence any processes for testing the effectiveness of such policies, and no such testing was done.

Furthermore, FINRA found that Beardsley, on the firm's behalf, executed an engagement letter committing the firm to serve as a placement agent for an issuer of limited partnership units. The letter, which a registered representative of the firm drafted, falsely represented that the firm was not a registered broker-dealer. The findings also stated that the firm and Beardsley failed to enforce the firm's Customer Identification Program (CIP) in that they completely failed to verify four customers' identities. The findings also included that the firm and Beardsley failed to conduct a test of the firm's anti-money laundering (AML) compliance program for a calendar year. FINRA found that the firm conducted a securities business while failing to maintain its required minimum net capital.

The suspension is in effect from November 7, 2011, through November 6, 2012. ([FINRA Case #2009020930302](#))

Sammons Securities Company, LLC (CRD #115368, Ann Arbor, Michigan) and Carl Monroe Mook (CRD #2440514, Registered Principal, Byron, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Mook 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, the firm and Mook consented to the described sanctions and to the entry of findings that before Mook terminated his registration with a former member firm, and became registered with Sammons, he accessed the former firm's system and downloaded customers' names, addresses, account numbers, account registrations and security products held in the accounts to a compact disk (CD). The findings stated that when Mook began employment with the firm, he turned the CD over to it; the firm then accessed the non-public personal customer information contained on the CD, and using that information, generated and mailed the former firm's customers transition packets that contained, among other things, a change of broker-dealer form for each securities account. The findings also stated that the firm entered personal customer information on the change of broker-dealer forms that it obtained from Mook's CD, including customer account numbers at the former firm and the securities products they held at the firm. The findings also included that Mook and the firm used the non-public personal customer information without determining whether they were acting in compliance with Regulation S-P. For instance, Mook and the firm failed to

determine whether Mook's former firm had given any of the customers whose information they used the opportunity to opt out of the disclosure of their personal information when Mook left the firm.

The suspension was in effect from November 21, 2011, through December 5, 2011. ([FINRA Case #2009017821401](#))

Wilson-Davis & Co., Inc. (CRD #3777, Salt Lake City, Utah) and Paul Nofear Davis (CRD #62435, Registered Principal, Salt Lake City, Utah) submitted Offers of Settlement in which the firm was censured, fined \$75,269, \$35,269 of which represents disgorgement of the firm's profits, and required to certify to FINRA, within 30 days, that it has reviewed its policies, systems and procedures for the liquidation of securities delivered in certificate or electronic form, and has determined that they are reasonably designed to achieve compliance with FINRA rules and federal securities laws and provide FINRA with a written description of these policies, systems and procedures. Davis was fined \$15,000 and suspended from association with any FINRA member in any principal capacity for 45 days.

Without admitting or denying the allegations, the firm and Davis consented to the described sanctions and to the entry of findings that the firm and Davis failed to take steps necessary to determine whether the shares of an SEC-reporting company could be sold without violating Section 5 of the Securities Act of 1933 (Securities Act); the firm knew, or should have known, information regarding the issuer and its securities, which required that they conduct further inquiry to determine whether the securities sold were registered or going to be sold in transactions exempt from the registration requirements of Section 5 of the Securities Act. The findings stated that the firm was in possession of information regarding the activity at the firm from various sources, including stock certificates, account information and documents in its possession, as well as from sell orders and wire and transfer instructions that should have alerted them that the sales of the company shares through the firm may have been part of an illegal unregistered distribution. The findings also stated that the firm failed to perform an adequate inquiry into the registration or exemption status of the unregistered shares deposited into and sold from firm accounts; among other things, the firm failed to determine when, how or under what circumstances the accounts received the shares, whether any of these customers were affiliated with the issuer, how long they held the shares, whether or when they had paid for the shares, or what percentage of the outstanding company shares each customer owned. The findings also included that the firm failed to sufficiently follow up with respect to "red flags" on firm compliance forms that contained information that contradicted firm records, SEC filings and other compliance forms; the firm failed to adequately ascertain missing information on firm compliance forms and resolve information that was inaccurately calculated on the forms.

FINRA found that the firm executed numerous sales of the unregistered company's shares for the accounts, and thereby participated in and facilitated the unregistered distribution of the company shares; the firm sold approximately two million unregistered company shares into the public markets, resulting in proceeds of over \$2.9 million to the accounts and profits of \$35,269 to the firm. FINRA also found that numerous accounts a customer controlled or referred had deposited millions of unregistered company shares into accounts at the firm, in the form of newly issued certificates; after receiving the shares, numerous firm accounts began selling them into the open market or transferring them to other newly opened firm accounts. In addition, FINRA determined that the activity in the accounts presented red flags that an illegal unregistered distribution was underway, and these red flags should have led the firm and Davis to supervise the registered representative involved in the transactions more closely to ensure that his activities complied with the requirements of Section 5 of the Securities Act; despite these red flags, the firm and Davis failed to take adequate measures to reasonably supervise the registered representative and instead allowed him to engage in these activities without adequate supervision. Moreover, FINRA found that Davis failed to take steps to ensure that anyone at the firm reviewed any of the company's SEC filings and determine if the large amounts of stock deposited into firm accounts were freely tradable without restriction; nor did anyone at the firm ever request a legal opinion from independent counsel concerning the tradability of the company shares. Furthermore, FINRA found that the firm and Davis failed to establish a supervisory system reasonably designed to ensure that registered representatives or any other firm personnel determined whether shares of stock deposited in customer accounts were registered or being sold in transactions that were exempt from registrations, or otherwise determine whether shares in customer accounts were being sold in compliance with Section 5 of the Securities Act.

The findings also stated that the firm's written supervisory procedures (WSPs) contained inadequate procedures addressing the circumstances under which firm personnel should inquire into the registration or exemption status of shares in customer accounts, such as a list of factors that required attention or inquiry such as those involving a little-known issuer, a thinly traded security or the deposit of certificates or large volumes of shares; nor did the WSPs contain an adequate description of steps that firm personnel could or should take to inquire into the shares' registration or exemption status, such as asking how, when and under what circumstances the shares were obtained. The findings also included that the firm's supervisory system for preventing unregistered sales of stock was also inadequate because compliance forms, in which customers supplied critical information, were optional and not required, and were used on an ad hoc basis, which was insufficient to ensure compliance with federal securities laws and FINRA rules; Davis was responsible for maintaining the firm's supervisory systems.

The suspension is in effect from November 7, 2011, through December 21, 2011. ([FINRA Case #2007008724701](#))

Firm and Individual Fined

Stoever, Glass & Company Inc. (CRD #7031, New York, New York) and Frederick John Stoever (CRD #501032, Registered Principal, Englewood, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which the firm and Stoever were censured and fined \$10,000, jointly and severally, and the firm was fined an additional \$35,000. Without admitting or denying the findings, the firm and Stoever consented to the described sanctions and to the entry of findings that the firm, acting through Stoever, its president and CCO, failed to designate one or more principals who shall establish, maintain and enforce a system of supervisory control policies and procedures that test and verify that the firm's supervisory procedures are reasonably designed with respect to the activities of the firm, its registered representatives and associated persons, to achieve compliance with applicable securities laws, regulations, and MSRB and FINRA rules; and create additional or amend existing supervisory procedures where such testing and verification identifies a need; and adequately establish, maintain and enforce such written supervisory control policies and procedures.

The findings stated that the firm, acting through Stoever, failed to ensure that a designated principal submit to the firm's senior management an annual report for two years detailing 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 findings also stated that the firm, acting through Stoever, failed to ensure that its chief executive officer (CEO) properly certify annually for two years that the firm has processes in place to establish, maintain, review, test and modify written compliance policies and supervision procedures reasonably designed to achieve compliance with applicable FINRA rules, MSRB rules and federal securities laws and regulations; and that the CEO has conducted one or more meetings with the CCO in the preceding 12 months to discuss such processes. The findings also included that a review of municipal security transactions revealed that the firm failed to maintain accurate and complete order tickets. FINRA found that the firm failed to establish adequate written procedures concerning its municipal securities business, the completion of order tickets for a municipal security transaction, the annual office inspection, and the person or persons responsible for conducting the annual compliance meeting and who must attend. ([FINRA Case #2009016239501](#))

Firms Fined

Albert Fried & Company, LLC (CRD #1914, 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 WSPs regarding compliance with SEC Rules 203(a), 203(b)(3) and 204T, and NASD Rules 3210 and 6130(d)(6). Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it had a fail-to-deliver position at a registered clearing agency in an equity security that resulted

from long sales and failed to immediately thereafter close out the fail-to-deliver position by purchasing securities of like kind and quantity no later than the beginning of regular trading hours on the third consecutive settlement day following the settlement date for the transaction (i.e., T+6). The findings stated that the firm continued to have a fail-to-deliver position in the security at the registered clearing agency for four settlement days. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with SEC Rules 230(a), 203(b)(3) and 204T, and NASD Rules 3210 and 6130(d)(6). ([FINRA Case #2008015239401](#))

Alternative Wealth Strategies, Inc. (CRD #130933, Cherry Hill, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$75,000, which includes the disgorgement of \$40,000 in commissions. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it negligently omitted material facts in connection with its sale of promissory notes. The findings stated that an entity a real estate developer controlled issued the notes. The firm negligently failed to disclose to investors that the entity had been experiencing cash flow problems and that the entity and other companies affiliated with the real estate developer had failed to make required interest payments to investors. The findings also stated that the firm negligently failed to disclose that it was unlikely that the entity's affiliated company would be able to make its scheduled principal payments totaling \$10 million that were due to its note-holders. The findings also included that the firm distributed a document called "Investor Letter" for a company; the Investor Letter constituted a research report, but it failed to disclose a firm representative's ownership interest in the company and his receipt of compensation from the company.

FINRA found that the firm permitted its registered persons to use presentations regarding the company to solicit potential investors at seminars; the presentations contained statements and projections that were without basis; were false, exaggerated, unwarranted and/or misleading; and failed to provide a balanced presentation by omitting material information regarding the significant risks associated with investing in the company. FINRA also found 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, its registered representatives and associated persons to achieve compliance with applicable securities laws and regulations, and created additional or amended supervisory procedures where such testing and verification identified a need. The firm's supervisory control policies and procedures failed to identify producing managers and assign qualified principals to supervise such managers, and the firm failed to electronically notify FINRA of its reliance on the limited size and resources exception. In addition, FINRA determined that for one year-end, the firm failed to prepare an annual certification from its CEO or equivalent officer, that it had in place processes to establish, maintain, review, test and modify written compliance policies and WSPs reasonably designed to achieve compliance with applicable FINRA rules, MSRB rules and federal securities laws and regulations, and that the CEO

had conducted one or more meetings with the firm's CCO in the preceding 12 months to discuss such processes. For another year-end, the firm filed an annual certification that did not fully comply with FINRA Rule 3130(c). Moreover, FINRA found that the firm failed to establish, maintain and/or enforce WSPs reasonably designed to achieve compliance with the laws and regulations applicable to its business in conducting private placement offerings (including training representatives regarding the risks for these offerings and establishing standards for determining the suitability of these offerings for investors), the review of electronic correspondence and the review and approval of advertising materials. ([FINRA Case #2010021058401](#))

Corby Capital Markets, Inc. (CRD #7165, Boston, Massachusetts) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$100,000 and required to certify to FINRA in writing within 30 days of the issuance of the AWC that it currently has in place systems and procedures reasonably designed to achieve compliance with the laws, regulations, and rules concerning MSRB 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 report 31 percent of its municipal securities transactions to the MSRB. The findings stated that the firm mistakenly viewed the transactions as "step outs" and therefore reported the transactions to the National Securities Clearing Corporation's Real-Time Trade Matching System, but did not report them to the MSRB's Real-Time Transaction Reporting System (RTRS). The findings also stated that the firm failed to establish and maintain a supervisory system and adopt, maintain and enforce WSPs reasonably designed to achieve compliance with MSRB reporting requirements. The procedures failed to provide any instruction or guidance regarding how municipal securities transactions would be reported. The findings also included that the only specific provision contained in the WSPs regarding the supervision of trade reporting was that the principal would monitor the company's transaction-reporting performance no less frequently than quarterly by accessing reported data through the MSRB's Dealer Feedback Service. The WSPs failed to provide for effective follow-up and review to ensure enforcement in that provision. FINRA found that since there were not any specific guidelines for how the principal review was to take place, it is unclear whether such a review would have detected the reporting failures. ([FINRA Case #2010020868901](#))

DLS Capital Partners, Inc. (CRD #37155, Dallas, Texas) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to prepare an annual report to senior management regarding its supervisory control procedures. The findings stated that the firm failed to identify a second principal responsible for supervising the firm's producing manager. The findings also stated that the firm failed to maintain an executed certification by its CEO that the firm had processes in place to establish, maintain, review, test and modify written compliance. The findings also included that the firm failed to establish adequate AML procedures and conduct adequate annual AML tests. ([FINRA Case #2009016266201](#))

Edgemont Capital Partners, L.P. (CRD #122572, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$30,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it contracted with a third-party vendor for purposes of email retention, but did not implement an audit system regarding such email storage and was therefore not aware that the third-party vendor did not adequately retain certain emails, which resulted in the firm's failure to maintain certain emails. ([FINRA Case #2011025721201](#))

Elevation, LLC (CRD #140341, Charlotte, North Carolina) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it commenced an options business, engaged in options transactions and designated an individual as its Registered Options Principal (ROP) until his resignation from the firm. The findings stated that the firm did not notify FINRA of his resignation but instead continued to engage in options business without registering a new ROP. The findings also stated that the firm failed to establish, maintain and enforce an adequate supervisory system for its options activities, including written procedures, reasonably designed to achieve compliance with application securities regulations, and to supervise options transactions in which it engaged. The findings also included that the firm failed to comply with multiple requirements of FINRA Rule 2360, the options rule, by failing to comply with its registration and customer agreement requirements. ([FINRA Case #2010021236201](#))

First New York Securities L.L.C. (CRD #16362, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$25,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report information regarding transactions effected in municipal securities to the RTRS within 15 minutes of trade time to an RTRS Portal. The findings stated that the firm failed to show the correct execution time on the memorandum for most of the transactions for the account the firm executed with another broker or dealer, and failed to show the execution time on the memorandum of one additional transaction in municipal securities for the account the firm executed with another broker or dealer. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with certain applicable securities laws, regulations and/or MSRB rules; the firm's supervisory system did not include WSPs concerning municipal securities reporting. The findings also included that the firm failed to provide documentary evidence that it performed the supervisory reviews set forth in its WSPs concerning order ticket reviews of the previously referenced municipal securities trades. ([FINRA Case #2009020529801](#))

First New York Securities L.L.C. (CRD #16362, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$12,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report information regarding transactions effected in municipal securities to the RTRS within 15 minutes of trade time to an RTRS Portal. ([FINRA Case #2010025029801](#))

Folger Nolan Fleming Douglas Incorporated (CRD #319, Washington, DC) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$10,000 and ordered to pay \$3,422.40, 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 purchased municipal securities for its own account from a customer and/or sold municipal securities for its own account to a customer at an aggregate price (including any markdown or markup) that was not fair and reasonable, taking into consideration all relevant factors, including the best judgment of the broker, dealer or municipal securities dealer as to the fair market value of the securities at the time of the transaction and of any securities exchanged or traded in connection with the transaction, the expense involved in effecting the transaction, the fact that the broker, dealer or municipal securities dealer is entitled to a profit, and the total dollar amount of the transaction. ([FINRA Case #2009018306201](#))

GFI Securities LLC (CRD #19982, New York, New York) 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 transmitted Execution or Combined Order/Execution Reports to the Order Audit Trail System (OATS®) that contained inaccurate, missing or improperly formatted data so that OATS was unable to link the execution reports to the related trade reports in a FINRA trade reporting system. The findings stated that the firm transmitted Route or Combined Order/Route Reports to OATS that other members submitted to OATS where the firm was named as the Sent To Firm that OATS was unable to match to a related New Order Report the firm submitted due to inaccurate, incomplete or improperly formatted data. ([FINRA Case #2008012764501](#))

Knight Equity Markets, L.P. nka Knight Capital Americas, L.P. (CRD #38599, Jersey City, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$30,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed, within 90 seconds after execution, to transmit to the FINRA/NASDAQ Trade Reporting Facility® (FNTRF) last sale reports of transactions in Consolidated Quotation System (CQS) securities. The findings stated that the firm failed to designate as “PRP” last sale reports of market-on-close transactions in designated securities to the FNTRF, and failed to designate as “1” to the FNTRF last sale reports of stop-stock transactions in designated securities. The findings also stated that the firm transmitted trade reports for odd-lot trades and failed to report

the transactions with the required odd-lot modifier of “.RO” to the NASD/NASDAQ Trade Reporting Facility (NNTRF) or the FNTRF. The findings also included that the firm failed to report to the NNTRF or the FNTRF its correct capacity in reportable securities transactions. FINRA found that the firm reported last sale reports of transactions in designated securities to the FNTRF it was not required to report. ([FINRA Case #2008014176601](#))

Kuhns Brothers Securities Corporation (CRD #47331, Lime Rock, Connecticut) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$1,012, ordered to pay \$186,838.36 in restitution to customers and revise its WSPs regarding Trade Reporting and Compliance Engine™ (TRACE™) reporting and fair pricing. FINRA imposed a lower fine after it considered, among other things, the firm’s revenues and financial resources. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that, acting through a registered representative, it bought/sold a security for the firm’s account from/to another broker-dealer and failed to sell/buy such security to/from a firm customer at a price that was fair, taking into consideration all relevant circumstances, including market conditions with respect to such security at the time of the transaction, the expense involved and that the firm was entitled to a profit. The findings stated that the firm failed to report to TRACE transactions in TRACE-eligible securities that it was required to report, resulting in a lack of transparency to the regulatory audit trail. The findings also stated that the firm, acting through the registered representative, purchased municipal securities for its own account from a customer and/or sold municipal securities for its own account to a customer at an aggregate price (including any markdown or markup) that was not fair and reasonable, taking into consideration all relevant factors, including the best judgment of the broker, dealer or municipal securities dealer as to the fair market value of the securities at the time of the transaction and of any securities exchanged or traded in connection with the transaction, the expense involved in effecting the transaction, the fact that the broker, dealer or municipal securities dealer is entitled to a profit, and the total dollar amount of the transaction.

The findings also included that the firm failed to preserve, for a period of not less than three years, the first two in an accessible place, the memorandum of brokerage orders executed for the benefit of a representative’s customers. FINRA found that the firm’s supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning TRACE reporting and fair pricing. FINRA also found that the firm failed to ensure that there were adequate supervisory reviews of the representative’s customer activities to detect and prevent violations of NASD Rules 2440 and 6230, Interpretative Material (IM) 2440 and MSRB Rule G-30. ([FINRA Case #2006005378503](#))

Murphy & Durieu (CRD #6292, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to transmit Reportable Order Events (ROEs) to OATS on several

business days. The findings stated that the firm failed to timely report numerous ROEs to OATS; transmitted Execution or Combined Order/Execution Reports to OATS that OATS was unable to link to the related reports due to inaccurate, incomplete or improperly formatted data; and transmitted to OATS several Route or Combined Order/Route Reports that OATS was unable to link to the corresponding New Order Report. The findings also stated that OATS was unable to link several of the firm's New Order Reports to OATS with reports by another firm for which the firm was named as the "Sent to Firm." ([FINRA Case #2009018616801](#))

Newedge USA, LLC (CRD #36118, Chicago, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$47,500 and required to revise its WSPs regarding short interest reporting. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it submitted incorrect short interest position reports to FINRA, and failed to report some short interest positions for certain securities. 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 reporting. The findings also stated that the firm failed to transmit Route Reports after a Cancel/Replace Report previously entered for an order routed away; these Route Reports represented most of its Cancel/Replace orders that were previously routed away. The findings also included that the firm failed to transmit numerous Route or Combined Order/Route Reports for orders routed to other member firms. FINRA found that the firm transmitted ROEs to OATS that OATS rejected for context or syntax errors and were repairable, but the firm failed to repair most of the rejected ROEs; so in effect it failed to transmit them to OATS. ([FINRA Case #2008014507301](#))

Newedge USA, LLC (CRD #36118, Chicago, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$45,000 and required to revise its WSPs concerning trade reporting for transactions executed and reported by way of a give-up agreement. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted numerous ROEs to OATS that OATS rejected for context or syntax errors and were repairable, but the firm failed to repair many of these rejected ROEs so it, in effect, failed to transmit them to OATS. The findings stated that the firm re-submitted numerous rejected ROEs without marking these ROEs with the Rejected ROE Resubmit Flag of "Y." The findings also included that the firm failed to transmit numerous ROEs to OATS on several business days.

FINRA found that the firm failed to timely report numerous ROEs to OATS; transmitted to OATS numerous Route or Combined Order/Route Reports that OATS was unable to link to the related order routed to NASDAQ due to inaccurate, incomplete or improperly formatted data; transmitted to OATS several Execution or Combined Order/Execution Reports that contained inaccurate, incomplete or improperly formatted data; and transmitted to OATS several New Order Reports and related subsequent reports where the timestamp for

the related subsequent report occurred prior to the receipt of the order. Because of the inaccurate timestamps, the OATS system was unable to create an accurate time-sequenced record from the receipt of the order through its resolution. FINRA also found that the firm failed to report to the FNTRF the correct symbol indicating the capacity in which it executed several transactions in reportable securities. In addition, FINRA determined 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 trade reporting for transactions executed and reported by way of a give-up agreement. Moreover, FINRA found that the firm reported to the FNTRF several last sale reports of transactions in designated securities it was not required to report. ([FINRA Case #2008012333101](#))

Newedge USA, LLC (CRD #36118, Chicago, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to timely report ROEs to OATS, and transmitted Route or Combined Order/Route Reports to OATS that OATS was unable to link to the related order routed to NASDAQ due to inaccurate, incomplete or improperly formatted data, or was unable to link to the corresponding new order transmitted by the destination member firm due to inaccurate, incomplete or improperly formatted data. ([FINRA Case #2010021306801](#))

Piper Jaffray & Co. (CRD #665, Minneapolis, Minnesota) 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 show the terms and conditions on brokerage order memoranda. The findings stated that the firm failed to provide written notification disclosing to its customer that the transaction was executed at an average price, failed to provide written notification disclosing to its customer that further details were available upon request as a result of multiple compensation types, and on two occasions provided written notification that incorrectly disclosed to its customer that the transaction was executed at an average price. The findings also stated that the firm failed to report the correct trade time to the RTRS in municipal securities transaction reports and failed to report information regarding transactions effected in municipal securities to the RTRS within 15 minutes of trade time to an RTRS Portal. ([FINRA Case #2009017013201](#))

Sonenshine & Company LLC (CRD #104357, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that for three years, it failed to establish, maintain and enforce an adequate system of supervisory control policies and procedures in that it failed to test and verify its supervisory controls and procedures. The findings stated that the firm failed to ensure submission to its senior management no less than annually a report detailing the firm's system of supervisory controls and procedures. The firm failed for three years to complete an adequate annual certification of compliance and supervisory processes.

The findings also stated that the firm failed to provide for independent testing for AML compliance and failed to provide adequate ongoing AML training for appropriate personnel. ([FINRA Case #2010020955001](#))

Wells Fargo Advisors, LLC fka Wachovia Securities, Inc. (CRD #19616, St. Louis, Missouri) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$350,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to establish, maintain and enforce adequate WSPs for its Escheatment Group (Escheatment) addressing the restoration of abandoned accounts. The findings stated that the firm considered an account to be abandoned upon receipt by the firm of three returned account statements by the postal service. The firm's written procedures required that employees wishing to restore customer accounts from an abandoned status send a written request to Escheatment to restore the account. Upon receipt of the written request, and based solely upon the representations included in the request, Escheatment restored the account to an active status and notified only the requestor that the account had been restored to an active status. The findings also stated that the firm's written procedures failed to identify the firm personnel who were authorized to submit requests to have abandoned accounts restored or released from abandoned status. Escheatment accepted requests to restore abandoned accounts from branch office personnel working in the branch office where the abandoned account was last serviced. The findings also included that the firm's written procedures did not require that the requestor obtain supervisory approval before submitting requests to have abandoned accounts restored or released from abandoned status, did not require the requestor to submit proof that a customer had been located and did not require the requestor to submit proof of the customer's new address. The firm's procedures also did not require that Escheatment notify branch office managers when accounts were restored to active status.

FINRA found that after the restoration of an abandoned account, the requestor was required to submit a change of address request with the customer's new address to the firm's New Accounts Group. Upon receipt of the address change requests, the firm changed the address of record of the restored account and sent letters confirming the change of address to both the customer's new and old address, although the old address was invariably an invalid address. FINRA also found that the firm's deficient procedures facilitated a firm operations manager's conversion of approximately \$850,000 in customers' funds from retail accounts for her personal use and enabled the operations manager's conduct to escape detection by the firm. ([FINRA Case #2009020630701](#))

Wunderlich Securities, Inc. (CRD #2543, Memphis, Tennessee) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$50,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to supervise the personal trading of research analysts who maintained discretionary accounts at other firms. The findings stated that

the firm's WSPs mandated compliance department review of personal trading of research analysts but, as a matter of policy, the firm did not require compliance review of analyst accounts over which discretionary trading authority had been granted to a third-party manager or advisor. As a result of that policy, the firm did not review the personal trading of two research analysts who held discretionary accounts at other firms. The findings also stated that the firm issued equity research reports that failed to comply with NASD Rule 2711(h) disclosure requirements. In some research reports in which it disclosed that it had served as manager or co-manager of a public offering of securities for the subject company in the preceding 12 months, it failed to disclose also that it had received compensation from the company for investment-banking services in connection with the offering. One research report failed to disclose that the firm had served as manager or co-manager of a public offering for the company in the preceding 12 months. Research reports failed to disclose that the firm was a market maker in the subject company's securities at the time the report was published. Some research reports were issued with indefinite disclosure regarding financial interests held in the securities of the subject company. Other research reports were issued with disclosures not prominently presented. The findings also included that, in connection with two public appearances by firm research department personnel, the firm failed to disclose its receipt of compensation from the subject company in the preceding 12 months. FINRA found that the firm maintained on its company website a list of all companies its research analysts covered, and for each company listed, the firm provided its current rating and price target for the company's stock, but failed to include the disclosures mandated by NASD Rule 2210(d) and IM 2210-1(6)(a) with respect to potential conflicts of interest. ([FINRA Case #2010020967601](#))

Individuals Barred or Suspended

John Daniel Abbruzzese (CRD #3165249, Registered Representative, Monmouth Beach, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$15,000 and suspended from association with any FINRA member in any capacity for 18 months. The fine must be paid either immediately upon Abbruzzese'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, Abbruzzese consented to the described sanctions and to the entry of findings that he recommended that a customer purchase a variable annuity with the proceeds of his relative's Individual Retirement Account (IRA). The customer had executed the application for a qualified annuity and shortly thereafter it was determined that the customer could not use the funds to purchase a qualified annuity. The findings stated that Abbruzzese copied the customer's signature, without his authorization, knowledge or consent, from an earlier letter, and pasted it on the variable annuity application to authorize the change from a qualified annuity to a non-qualified annuity. The finding also stated that Abbruzzese recommended that another customer purchase a variable annuity. The customer had entered into a reverse mortgage on her home and

was referred to Abbruzzese to invest some of the proceeds to generate income for her retirement. Abbruzzese completed the variable annuity application and represented that the source of the funds was the sale of real estate, rather than a reverse mortgage, because his member firm did not permit brokers to recommend reverse mortgages. By including inaccurate information on the customer's variable annuity application, Abbruzzese prevented the firm from maintaining accurate books and records and from assessing the suitability of his recommendations to the customers. The findings also included that Abbruzzese failed to timely respond to FINRA requests for information and documents until he appeared for on-the-record testimony.

The suspension is in effect from October 17, 2011, through April 16, 2013. ([FINRA Case #2010021144501](#))

Amir Aqeel (CRD #5151040, Registered Representative, Tomrall, Texas) submitted an Offer of Settlement in which he was suspended from association with any FINRA member in any capacity for two years. Without admitting or denying the allegations, Aqeel consented to the described sanction and to the entry of findings that in completing life insurance policy applications, he placed fictitious electronic funds transfer account numbers on the accounts of customer applicants that he knew were incorrect and submitted the applications for further processing; the fictitious numbers were actually variations of Aqeel's personal checking account number. The findings stated that based on the submission of the applications, Aqeel received credit towards his compensation; the policies subsequently lapsed due to invalid account numbers. The findings also stated that Aqeel created a credit guarantee document purporting to be a fully executed and authentic surety bond for \$12,500,000 by including fictitious information, and used the document in an attempt to secure funding for the development, ownership and management of a hotel project by an entity, and Aqeel was paid approximately \$155,000 as a finder's fee. The findings also included that Aqeel failed to timely respond to FINRA requests to appear for on-the-record testimony. FINRA found that Aqeel forged two customers' signatures on electronic signature authorization forms, bank authorization forms and/or acknowledgement forms, in completing their life insurance policy applications, without their knowledge or authorization.

The suspension is in effect from November 7, 2011, through November 6, 2013. ([FINRA Case #2008012703401](#))

Brett E. Backerman (CRD #5261603, Registered Representative, Fresh Meadows, 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, Backerman consented to the described sanction and to the entry of findings that he misappropriated a bank customer's funds when he applied for and obtained an automatic teller machine (ATM) card for a bank customer account and used the ATM card to withdraw approximately \$8,752 from the customer's account to pay for his personal

expenses. The findings stated that Backerman did not inform the bank customer about the withdrawals; the bank customer had not requested anyone to link an ATM card to his bank account, and neither the bank customer nor the bank authorized Backerman to withdraw the funds from the customer's bank account. The bank subsequently reimbursed the customer for the funds that were improperly taken from the customer's bank account. ([FINRA Case #2010021972501](#))

Xiomara Isabel Beach (CRD #5628107, Registered Representative, Long Beach, California) submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$7,500 and suspended from association with any FINRA member in any capacity for 20 business days. The fine must be paid either immediately upon Beach's reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Beach consented to the described sanctions and entry of findings that she sold, or participated in the sale of, approximately \$1.3 million in private placement offerings to customers without the required FINRA license because she did not pass the General Securities Representative (Series 7) licensing exam or any other FINRA licensing exam until a later date.

The suspension was in effect from November 7, 2011, through December 5, 2011. ([FINRA Case #2010022715604](#))

Carl Max Birkelbach (CRD #1177843, Registered Principal, Chicago, Illinois) and William James Murphy (CRD #1437087, Registered Principal, Midlothian, Illinois). Birkelbach was barred from association with any FINRA member in any capacity. Murphy was fined \$585,174.67, as disgorgement of commissions, and barred from association with any FINRA member in any capacity. The National Adjudicatory Council (NAC) imposed the sanctions following appeal of an Office of Hearing Officers (OHO) decision. The sanctions were based on findings that Murphy exercised discretion in clients' accounts without the customers' or his member firm's prior authorization. The findings stated that Murphy engaged in churning and excessive and unsuitable trading in customers' accounts in light of their financial situation and investment objectives. The findings also stated that Murphy effected uncovered trades in a customer's account beyond the levels the customer authorized or Murphy's firm approved. The findings also included that Murphy created and distributed inaccurate, misleading and unbalanced written communications, including reports and sales literature, to a customer. FINRA found that Birkelbach failed to supervise Murphy's handling of customer accounts at his member firm, and failed to properly review and prevent misleading documents from being sent from his firm.

This decision has been appealed to the SEC. The sanctions, with exception of the bars, are not in effect pending consideration of the appeal. ([FINRA Case #2005003610701](#))

Eric Lawrence Bloom (CRD #1742255, Registered Principal, Boca Raton, 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, Bloom consented to the described sanction and to the entry of findings that he made material misrepresentations and omissions of fact and unwarranted, exaggerated and misleading statements to investors in connection with the sale of private placement offerings. The findings stated that Bloom misrepresented in an offering's subscription agreement that the use of proceeds for the offering was initial funding of the company's ventures in technology risk management solutions and business development of services. The proceeds were actually used to purchase shares of a stock from an individual. Bloom did not disclose the stock purchasing agreement between the company and the individual that predated the offering and failed to disclose the conflicts of interest and control relationships that existed among the company and his member firm's outside counsel. Bloom failed to disclose that the firm's outside counsel, who prepared all the offering documents, had created the company to operate out of his residential address and that the outside counsel's relatives actually owned and operated the company. The findings also stated that for another offering, Bloom misrepresented the offering in the PPM as an investment in membership interests of a company but did not disclose to investors that there was a promissory note between his firm's CEO and the company's owner, and that \$400,000 was due pursuant to the note. Bloom failed to disclose to investors that \$400,000 of investors' funds had already been paid to satisfy the note and that \$352,200 of investor funds from the offering had already been paid by check to pay back the promissory notes from the offering. Until a supplement to the offering memorandum, Bloom failed to disclose to investors the profit distribution from the offering and further failed to disclose the conflicts of interest and control relationships among the offering company, the company that controlled the offering company, and the firm's outside counsel and counsel's family. The findings also included that for two other offerings, Bloom failed to disclose to investors in the subscription agreements of both companies the significant regulatory history of the controlling partners of the offerings who had been charged by FINRA in a market manipulation scheme in connection with alleges sales of over \$3.5 million of stock to firm customers. Bloom's firm's counsel prepared the offering documents in consultation with Bloom. Bloom relied to his detriment on the counsel's advice about which facts needed to be disclosed and which could be omitted in the offering documents.

FINRA found that Bloom was the principal at the firm responsible for supervising all aspects of the firm's business, including ensuring compliance with FINRA's rules regarding communications with the public. Bloom's firm acted as the sole placement agent for an additional private placement, and the offering memorandum was not fair and balanced regarding the potential investment returns of the partnership. The offering memorandum utilized past performance of the Average of Top 25 S&P 500 Fund as compared to the anticipated returns of investing in the offering. FINRA also found that Bloom's firm participated in best efforts, minimum-maximum offerings conducted by companies, and

instead of having investors deposit their funds into a bank escrow account as required by SEC Rule 15c2-4, the offering documents set forth that an escrow account with a transfer agent would be established for investor funds during the contingency period, causing the firm to violate Section 15(c) of the Securities Exchange Act of 1934 and SEC Rule 15c2-4. ([FINRA Case #2009016157801](#))

Raymond Thomas Blunk (CRD #2011245, Registered Representative, Carmel, Indiana) submitted an Offer of Settlement in which he was fined \$15,000 and suspended from association with any FINRA member in any capacity for 25 days. Without admitting or denying the allegations, Blunk consented to the described sanctions and to the entry of findings that he recommended that customers participate in a Stock-to-Cash program under which customers would pledge stock to obtain loans to purchase other products. Customers obtained non-recourse loans, totaling approximately \$1.8 million, from a non-broker-dealer company and pledged stock to that entity as collateral for the loans; the pledged stock would be transferred to the loaning entity's securities account, which was maintained at a clearing firm. The findings stated that the loans were in amounts up to 90 percent of the value of the pledged stock and were typically for a short period of time, usually three years, with no payments required during the term of the loan; instead, customers were required to pay the full principal and interest due at the end of the loan term. Customers used some of the loan proceeds to purchase insurance products through Blunk. The findings also stated that documentation used by the loaning entity made it appear that the entity was retaining the securities customers pledged and might use those securities to enter into hedging transactions, but the customers actually conveyed full ownership of their stock to the entity conducting the program, which routinely sold the securities upon receipt and often moved the money into its own bank account. The findings also included that when the entity became unable to make complete payments to customers with profitable portfolios, it used the proceeds from the sale of securities new customers pledged to pay off its obligations to existing customers and diverted money to pay for expenses not related to its operation.

FINRA found that Blunk did not undertake adequate efforts to find out what happened to the stock that was conveyed to the lender; he relied on information the persons marketing the program provided and assumed that the lender was a broker-dealer holding the stock for his customers in custodial accounts. Blunk did not undertake any steps to verify this mistaken assumption. FINRA also found that the intermediaries with whom Blunk dealt refused to provide more information when he tried to obtain information about the lender and nevertheless, continued to entrust his clients' securities to the lender.

The suspension is in effect from November 21, 2011, through December 15, 2011. ([FINRA Case #2007008935009](#))

Kevin James Boyer (CRD #5432763, Associated Person, Kalamazoo, Michigan) submitted a Letter of Acceptance, Waiver and Consent in which he was censured, fined \$5,000 and suspended from association with any FINRA member in any capacity for five months. The fine must be paid either immediately upon Boyer'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, Boyer consented to the described sanctions and entry of findings that he signed three customers' names onto documents relating to their life insurance policies without their permission or authority. The customers received the life insurance policies they intended to purchase.

The suspension is in effect from November 7, 2011, through April 6, 2012. ([FINRA Case #2010024579801](#))

David Leroy Carlson (CRD #1071647, Registered Representative, Simi Valley, California) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Carlson consented to the described sanction and to the entry of findings that he facilitated securities investments away from his member firm. The findings stated that Carlson facilitated investments titled Secured Investment Notes through a company which totaled approximately \$1.7 million, and he earned approximately \$77,000 on the sales. The findings also stated that Carlson neither provided written notice to, nor obtained approval from, his firm prior to facilitating the investments. The findings also included that the company through which the investments were made was ultimately determined to be a fraudulent scheme, although Carlson has not been implicated in the scheme. ([FINRA Case #2009018215701](#))

Hernan Charry Jr. aka Herman Charry (CRD #4714390, Registered Principal, Scottsdale, Arizona) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any principal capacity for 20 business days. The fine must be paid either immediately upon Charry'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, Charry consented to the described sanctions and to the entry of findings that he failed to enforce his firm's WSPs regarding the handling of PPM, subscription documents and investor funds for private placement offerings his firm sold, and he failed to effectively supervise the associated persons' handling of such documents. Charry did not prevent the associated persons from sending subscription documents directly to the private placement issuer, which precluded the firm from conducting adequate oversight or review of the transactions and from retaining transaction-related documents.

The findings stated that Charry failed to review private placement transactions for suitability and typically did not review or approve private placement transactions effected by the associated persons he supervised. The findings also stated that Charry failed to enforce the firm's WSPs and failed to effectively supervise the associated persons' use of non-firm email for securities business. Charry was aware of, and did not prevent, the associated persons from using personal email accounts to conduct securities business. The use of non-firm email accounts prevented the firm's compliance staff from reviewing the associated persons' customer communications, and the firm was unable to retain securities-related communications. The findings also included that when Charry resigned from the firm, he left the keys for the office and the key for filing cabinets containing firm customers' non-public personal information with the office's landlord, who was not affiliated with Charry's firm. This failed to safeguard the customers' non-public personal information and, in addition, made such information available to a non-affiliated third party without providing customers with the appropriate notice, thereby causing the firm to violate Rules 10 and 30 of SEC Regulation S-P.

The suspension was in effect from November 7, 2011, through December 5, 2011. ([FINRA Case #2010022715607](#))

Ronald William Cheney (CRD #4794185, Registered Representative, Arlington, Texas) 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 business days. The fine must be paid either immediately upon Cheney'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, Cheney consented to the described sanctions and to the entry of findings that he borrowed \$10,000 from his customers without his member firm's written authorization. The findings stated that Cheney did not request or receive the firm's permission to borrow money from the customers; his firm's WSPs require review and written approval before a registered representative may borrow from a customer. The findings also stated that Cheney completed his firm's annual certification questionnaire in which he was asked if he had borrowed from, or loaned money to, any customers, and responded that he had not. The findings also included that Cheney incorporated this loan into another loan from the customers, for a total sum borrowed of \$23,000. FINRA found that while registered with another member firm, Cheney was paid \$5,187 for work he performed on behalf of the beneficiaries of a trust account. FINRA also found that the firm's procedures require that a representative submit a written request for approval to the designated supervisory principal prior to engaging in any outside employment or business activity. In addition, FINRA determined that Cheney submitted outside business activity forms and an internal questionnaire to the firm in which he responded that he had not engaged in any outside business activity without prior written approval.

The suspension is in effect from October 17, 2011, through January 11, 2012. ([FINRA Case #2010022535201](#))

Russell Jay Clark (CRD #864116, Registered Principal, Ridgewood, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any principal capacity for 10 business days. Without admitting or denying the findings, Clark consented to the described sanctions and to the entry of findings that he failed to supervise the activities of a representative who engaged in unsuitable short-term trading in bonds and mutual funds in an elderly customer's account. The findings stated that Clark was the registered representative's supervisor and responsible for the enforcement of the representative's heightened supervision plan. Clark did not supervise the representative in accordance with that plan and otherwise failed to take appropriate action to supervise the representative that was reasonably designed to prevent the representative's violations and achieve compliance with the applicable rules. The findings also stated that the supervision plan required Clark to review and compare each investment transaction with the customer's new account form for suitability. Clark did not review all of the representative's transactions for the kind of unsuitable short-term trading activity in which he was engaged. The findings also included that the supervision plan and Clark's member firm's procedures required the representative to use certain mutual fund disclosure forms in connection with his transactions, but Clark did not ensure that the representative was using such forms.

The suspension was in effect from November 21, 2011, through December 5, 2011. ([FINRA Case #2008015183101](#))

Richard Grant Cody (CRD #2794558, Registered Representative, Boston, Massachusetts) was fined \$27,500 and suspended from association with any FINRA member in any capacity for one year. The SEC sustained the sanctions following appeal, in part, of the NAC decision and denial of a Motion for Reconsideration to the SEC. The sanctions were based on findings that Cody engaged in excessive trading in customers' accounts, given the customers' conservative investment objectives and financial situations, without prior notification to the customers. The findings stated that Cody provided his customers with account summaries that contained misstatements and were materially misleading to the customers' efforts to understand the trading and market values of their accounts. The findings also included that Cody failed to timely update his Form U4 to disclose customer settlements.

Cody appealed to the U.S. Court of Appeals and the sanctions are not in effect pending the appeal. ([FINRA Case #2005003188901](#))

William Alexis Cronin Jr. (CRD #872542, Registered Principal, Madison, Connecticut) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$181,000, which includes disgorgement of \$171,000 in commissions, and suspended from association with any FINRA member in any capacity for two years. The fine must be paid either immediately upon Cronin'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, Cronin

consented to the described sanctions and to the entry of findings that he participated in private securities transactions without prior written notice to, and prior written approval from, his member firm. The findings stated that Cronin sold approximately \$1,712,500 in notes and debentures to investors, most of whom were his firm's customers at the time. The notes and debentures, which were securities, were sold through private placements. Cronin received approximately \$171,000 in commissions from these investments. The findings also stated that Cronin borrowed \$10,000 from one of his customers at his firm. Cronin executed a promissory note stating that the loan was to be paid in full by a certain date, but failed to repay the loan according to the terms of the note. Cronin eventually repaid the loan with interest, but only after the customer filed an action against him. The findings also included that Cronin borrowed \$5,000 from another customer through a loan that was not reduced to writing, and had no repayment terms; Cronin repaid the loan. FINRA found that Cronin did not disclose either of the loans to his firm, which prohibited loans from customers without prior firm approval.

The suspension is in effect from November 7, 2011, through November 6, 2013. ([FINRA Case #2011025885801](#))

Frank Vincent Finizia (CRD #3153553, Registered Principal, Ramsey, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any principal capacity for 30 business days. Without admitting or denying the findings, Finizia consented to the described sanctions and to the entry of findings that he failed to reasonably supervise the activities of a representative who engaged in excessive and unsuitable trading in several customers' accounts. The findings stated that Finizia failed to take appropriate action to supervise the representative that was reasonably designed to prevent the representative's violations and achieve compliance with applicable rules. Finizia did not reasonably respond to red flags of possible misconduct in certain of the customer accounts the representative handled by the representative, including a pattern of short-term trading.

The suspension is in effect from November 7, 2011, through December 19, 2011. ([FINRA Case #2008015365401](#))

Philip Florio (CRD #2377440, Registered Principal, Smithtown, 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 principal or supervisory capacity for 10 business days. Without admitting or denying the findings, Florio consented to the described sanctions and to the entry of findings that he failed to adequately supervise a registered representative who was engaged in a pattern of trading activity in a customer's account that was excessive in light of the customer's objectives, financial situation and needs. The findings stated that Florio failed to reasonably and promptly respond to red flags raised by the registered representative's trading in the customer's account.

The suspension was in effect from November 14, 2011, through November 28, 2011. ([FINRA Case #2008013187802](#))

Richard Scott From aka Richard Scott Winther (CRD #703869, Registered Principal, Rocklin, 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. Without admitting or denying the findings, From consented to the described sanctions and to the entry of findings that he made misrepresentations in emails to individuals representing entities with whom he had done past investment banking business or hoped to conduct future investment banking business. At that time, From and his member firm were not actively engaged in any securities business due to the firm's failure to maintain minimum required net capital. The findings stated that in emails, From stated that he was currently calling investors to recommend investments in some companies but, in fact, he never made any such calls. From merely claimed he was doing so in order to receive payment for his past investment banking business with one of the companies. The findings also stated that in an email, From described the terms of a reverse merger that he claimed he had recently completed when, in fact, he did not participate in the reverse merger at all, but was instead describing a deal a different broker-dealer he knew conducted. From's purpose in making the false claim was to generate future investment banking business with the company. The findings also included that in an email to an individual representing another company, From represented that he had already obtained indications of interest from potential investors for an offering of securities the company contemplated, although he had not spoken to any potential investors but merely claimed he had done so for the purpose of generating future investment banking business with the company.

The suspension is in effect from November 7, 2011, through December 19, 2011. ([FINRA Case #2010021116001](#))

Ronald John Garabed Sr. (CRD #2394334, Registered Representative, Furlong, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Garabed'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, Garabed consented to the described sanctions and to the entry of findings that he borrowed \$15,000 from his customer at his firm contrary to his firm's procedures, which did not permit loans between registered representatives and their customers under any circumstances. The findings stated that although Garabed agreed to repay the customer the principal loan amount plus an additional \$5,000, he ultimately repaid a total of approximately \$15,200. The findings also stated that Garabed denied on a compliance questionnaire that he had ever solicited or accepted a loan from a client. The findings also included that Garabed willfully failed to update his Form U4 to disclose material information.

The suspension is in effect from November 7, 2011, through May 6, 2012. ([FINRA Case #2010024175501](#))

John Christopher Garner (CRD #2842338, Registered Representative, Charleston, West 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, Garner consented to the described sanction and to the entry of findings that when each of his customers invested in a mutual fund or annuity, he requested separate checks, one made out to the clearing firm and the other made payable to the bank at which Garner held a personal account. The first check represented the principal amount to be invested in the underlying product and was processed in the normal course through the member firm, and the other check purportedly represented Garner's fee, which he endorsed and deposited into his personal account for personal use. The findings stated that when requesting and depositing the purported fee checks, Garner did not disclose to his member firm that he was collecting these payments from his customers, and the firm's policies did not permit him to request or accept such payments. The findings also stated that Garner arranged for a customer to give him a check for approximately \$15,000 and told the customer that he would invest the money on her behalf over time pursuant to a dollar cost averaging strategy, although the firm had a policy prohibiting registered representatives from personally holding customer funds for later investment. The findings also included that Garner never invested any of the approximately \$15,000 for the customer's benefit but converted the money for his own use. FINRA found that upon discovery of Garner's conversion, he paid the amounts taken as supposed fees and for the false investment strategy to his firm, which, in turn, provided the funds to the clients whose funds had been converted. ([FINRA Case #2010022244401](#))

James Carl Gaul (CRD #218833, Registered Principal, Lower Bank, New Jersey) 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 30 business days, and suspended from association with any FINRA member in any principal capacity for 18 months. The fine must be paid either immediately upon Gaul's reassociation with a FINRA member firm following his 30- business-day 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, Gaul consented to the described sanctions and to the entry of findings that his firm, acting through Gaul and another firm principal, negligently omitted material facts in connection with its sales of promissory notes. The findings stated that the notes were issued by an entity that a real estate developer controlled. The firm, acting through Gaul and another firm principal, negligently failed to disclose to investors that the entity had been experiencing cash flow problems and that the entity and other companies affiliated with the real estate developer failed to make required interest payments to investors. The findings also stated that the firm, acting through Gaul and another firm principal, negligently failed to disclose that it was unlikely that the entity's affiliated company would be able to make its scheduled principal payments totaling \$10 million that were due to its note holders. The findings also included that the firm, acting through Gaul, 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, its registered representatives and associated persons to achieve compliance with applicable securities laws and regulations, and created additional or amended supervisory procedures where such testing and verification identified a need. The firm's supervisory control policies and procedures failed to identify producing managers and assign qualified principals to supervise such managers. The firm also failed to notify FINRA electronically of its reliance on the limited size and resources exception.

FINRA found that for a year-end, the firm, acting through Gaul, failed to prepare an annual certification from its CEO, or equivalent officer, that it had in place processes to establish, maintain, review, test and modify written compliance policies and WSPs reasonably designed to achieve compliance with applicable FINRA rules, MSRB rules and federal securities laws and regulations, and that the CEO had conducted one or more meetings with the firm's CCO in the preceding 12 months to discuss such processes. For another year-end, the firm, acting through Gaul, filed an annual certification that did not fully comply with FINRA Rule 3130(c). FINRA also found that the firm, acting through Gaul, failed to establish, maintain and/or enforce WSPs reasonably designed to achieve compliance with the laws and regulations applicable to its business in conducting private placement offerings (including training representatives regarding the risks for these offerings and establishing standards for determining the suitability of these offerings for investors), the review of electronic correspondence, and the review and approval of advertising materials.

The suspension in any capacity is in effect from November 7, 2011, through December 19, 2011. The suspension in any principal capacity is in effect from November 7, 2011, through May 6, 2013, ([FINRA Case #2010021058402](#))

Joseph John Giuliano (CRD #1411255, Registered Principal, Boca Raton, 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, Giuliano consented to the described sanction and to the entry of findings that an individual who subsequently became a trader with his member firm provided \$250,000 to the firm's parent company, without loan documentation or written agreement, either as funds to be traded in a firm proprietary account or be held as a security deposit to insure the broker-dealer against trading losses the individual might incur. The findings stated that Giuliano, an owner of at least a 40-percent stake in the parent company and the firm's chief financial officer (CFO) and FINOP, caused the funds to be deposited into the parent company's checking account and used some or all of the funds, without the individual's consent or authorization, to pay various expenses and debts of the parent company and the firm, thereby misusing the funds. ([FINRA Case #2009019382101](#))

Mike Givilancz Jr. (CRD #2141251, Registered Representative, Weslaco, Texas) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Givilancz consented to the described sanction and to the entry of findings that he failed to provide testimony FINRA requested in connection with an investigation of Givilancz' possibly obtaining loans from customers. The findings stated that Givilancz, through his attorney, informed FINRA that he would not appear for scheduled testimony on the date scheduled or on any date in the future. ([FINRA Case #2010024973901](#))

Kenneth William Gneuhs (CRD #223328, Registered Principal, Lake Zurich, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member in any principal capacity for 20 business days. In light of Gneuhs' financial status, no monetary sanctions have been imposed. Without admitting or denying the findings, Gneuhs consented to the described sanction and to the entry of findings that he failed to enforce his member firm's WSPs and failed to effectively supervise the activities of firm associated persons over whom he had supervisory responsibility to ensure that they were complying with FINRA rules and federal securities laws and regulations. The findings stated that Gneuhs failed to enforce the firm's WSPs regarding the handling of PPM, subscription documents and investor funds for private placement offerings his firm sold, and failed to effectively supervise the associated persons' handling of such documents. Gneuhs did not prevent the associated persons from sending subscription documents directly to the private placement issuer, which precluded the firm from conducting adequate oversight or review of the transactions and from retaining transaction-related documents. The findings also stated that Gneuhs failed to review the firm's private placement sales for suitability, and typically did not review or approve private placement transactions effected by the associated persons he supervised. The findings also included that Gneuhs failed to enforce the firm's WSPs and failed to effectively supervise the associated persons' use of non-firm email for securities business. Gneuhs was aware of, and did not prevent, the associated persons from using personal email accounts to conduct securities business. The use of non-firm email accounts prevented the firm's compliance staff from reviewing the associated persons' customer communications, and the firm was unable to retain securities-related communications.

The suspension is in effect from November 21, 2011, through December 19, 2011. ([FINRA Case #2010022715606](#))

Alan David Goddard Jr. (CRD #3019681, Registered Representative, Boca Raton, Florida) 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 45 days. The fine must be paid either immediately upon Goddard'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, Goddard consented to the described sanctions and to the entry of findings that

he was actively engaged in a member firm's investment banking and securities business as a principal without proper registration. The findings stated that Goddard signed selling agreements and consulting agreements with issuers on the firm's behalf as an officer of the firm and worked closely with the firm's outside counsel to establish the terms of selling agreements and private placement offerings that the firm conducted. Unbeknownst to Goddard, the firm's CCO amended the firm's Application for Broker-Dealer Registration (Form BD) to list Goddard as the firm's CEO. The findings also stated that during Goddard's entire association with the firm, he was only registered as a general securities representative; Goddard took the Series 24 examination but failed. Goddard erroneously believed that he could function in the capacities set forth above without a principal's license.

The suspension was in effect from October 17, 2011, through November 30, 2011. ([FINRA Case #2009016157802](#))

John Maraldi Grover III (CRD #2022616, Registered Representative, Wichita, Kansas) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000, ordered to pay \$67,326.68, plus interest, in restitution to a customer, and suspended from association with any FINRA member in any capacity for 90 days. The fine and restitution must be paid either immediately upon Grover'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, Grover consented to the described sanctions and to the entry of findings that he borrowed \$67,326.68 from a customer contrary to his member firm's prohibition of registered persons from borrowing money from customers. The findings stated that Grover signed and dated a form acknowledging that the firm prohibited its representatives from borrowing money or securities from a client; the customer was not a member of Grover's immediate family and was not in the business of lending money, so the firm did not approve the loan.

The suspension is in effect from October 17, 2011, through January 14, 2012. ([FINRA Case #2010022180101](#))

Seung Wan Ha aka William Ha (CRD #5141671, Registered Representative, Centennial, Colorado) submitted a Letter of Acceptance, Waiver and Consent in which he was censured, 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 Ha'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, Ha consented to the described sanctions and to the entry of findings that he willfully failed to disclose material information on his Form U4 and caused his Form U4 to contain misstatements. The findings stated that Ha was aware of his obligation to maintain an updated and accurate Form U4, and he agreed to update his Form U4 on a timely basis should any information change in the future.

The suspension is in effect from November 7, 2011, through August 6, 2012. ([FINRA Case #2010021749301](#))

Jason Sean Harrison (CRD #2628373, Registered Representative, Pearland, 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 one year. The fine must be paid either immediately upon Harrison'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, Harrison consented to the described sanctions and to the entry of findings that he engaged in private securities transactions without providing notice, written or otherwise, to his member firm. The findings stated that Harrison facilitated investments in bonded life contracts an entity issued to his firm's customers by bringing the investment opportunity to the customers' attention and referring them to the entity's salesperson. The customers subsequently invested a combined total of \$150,000 with the entity, and Harrison received fees in the amount of \$18,000 from the entity for the referrals, which were paid in the form of checks made payable to Harrison's relative. The findings also stated that prior to referring his firm's customers to the entity, Harrison had been told that the firm had prohibited its registered representatives from offering and selling the entity's products due to concerns that the firm had about the products. The findings also included that Harrison ignored the prohibition, made several customer referrals to the entity, and collected undisclosed referral fees. The entity's investment subsequently defaulted and all of the customers' funds were lost. FINRA found that Harrison engaged in an outside business activity in that he received \$2,500 in undisclosed compensation for a customer referral to a life settlement issuer business, without having provided notice to his firm.

The suspension is in effect from October 31, 2011, through October 30, 2012. ([FINRA Case #2009018648901](#))

Harry (Tito) Hernandez (CRD #5136075, Registered Representative, Panorama, 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 60 days. The fine must be paid either immediately upon Hernandez' 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, Hernandez consented to the described sanctions and to the entry of findings that he engaged in unapproved outside business activities by referring bank customers, whose bank loan applications had been denied, to independent outside mortgage companies without providing prompt written notice to his firm. The findings stated that Hernandez received compensation from the mortgage companies in the amount of at least \$61,280 for the referrals.

The suspension is in effect from October 17, 2011, through December 15, 2011. ([FINRA Case #2009020091201](#))

James Gregory Hogue (CRD #5377917, Registered Representative, Rayville, Louisiana) 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 Hogue'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, Hogue consented to the described sanctions and to the entry of findings that he improperly allowed the branch operations manager of his member firm to complete his Firm Element Continuing Education (CE) proficiency tests.

The suspension was in effect from November 7, 2011, through December 6, 2011. ([FINRA Case #2009019276103](#))

Walter Louis Howerton (CRD #251564, Registered Principal, Modesto, California) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$12,500 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Howerton'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, Howerton consented to the described sanctions and to the entry of findings that he made unsuitable options recommendations in a customer's account. The findings stated that Howerton began implementing a naked put selling strategy he recommended in the customer's account in order to generate income. The findings also stated that over the next three years, Howerton recommended numerous naked put sale transactions in the customer's account; the strategy was generally profitable until it began to result in losses and the customer was forced to close her positions at a substantial loss. The findings also included that Howerton did not have reasonable grounds to believe that the recommendations to sell naked puts were suitable for the customer based on her financial situation and needs; among other relevant considerations, the customer did not have the resources to withstand the magnitude of losses she risked, and ultimately incurred, by selling the naked put options.

The suspension is in effect from October 17, 2011, through April 16, 2012. ([FINRA Case #2009020560901](#))

Darrell Anthony Jenkins (CRD #4160048, Registered Representative, Spring, Texas) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 30 business days. The fine must be paid either immediately upon Jenkins' 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, Jenkins consented to the described sanctions and to the entry of findings that he engaged in a private securities transaction without providing notice, written or otherwise, to his member firm. The findings stated that Jenkins facilitated an investment in a bonded

life contract issued by an entity, by at least one investor, by bringing the investment opportunity to the investor's attention and providing the investor with the entity's sales materials and contact information for an entity salesperson. The findings also stated that the investor subsequently invested \$50,000 with the entity, and Jenkins received a fee in the amount of \$3,220 from the entity for the referral.

The suspension is in effect from November 7, 2011, through December 19, 2011. ([FINRA Case #2009020798301](#))

David Kurt Kirby (CRD #1335807, Registered Representative, Monrovia, California) submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member in any capacity for 90 days. In light of Kirby's financial status, no monetary sanctions have been imposed. Without admitting or denying the findings, Kirby consented to the described sanction and to the entry of findings that he willfully failed to amend his Form U4 to disclose material information.

The suspension is in effect from October 17, 2011, through January 14, 2012. ([FINRA Case #2010023709201](#))

Howard Sang Lee (CRD #3064801, Registered Representative, Irvine, 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 three months. Without admitting or denying the findings, Lee consented to the described sanctions and to the entry of findings that he borrowed \$20,000 from his customer and repaid the loan in full, plus interest. The findings stated that during the time of the loan transaction, the firm's procedures specifically prohibited registered representatives from borrowing money from customers. Lee's conduct was aggravated by the fact that he failed to disclose the loan when completing the firm's annual compliance inspection forms for two years, when he answered "yes" to the question, "Do you understand and comply with the rule that you cannot loan money to, or borrow money from your clients?"

The suspension is in effect from November 21, 2011, through February 20, 2012. ([FINRA Case #2009019154301](#))

Nick Jay Qingtun Liang (CRD #3168199, Registered Principal, Fontana, California) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Liang failed to appear for FINRA on-the-record testimony. The findings stated that Liang, while serving as his member firm's FINOP, president and CEO, caused the firm to violate Section 15 of the Securities Exchange Act and Rule 15c3-1 thereunder by conducting a securities business using the means and instrumentalities of interstate commerce while failing to maintain the minimum net capital required for the type of business it conducted. Specifically, Liang caused his firm to use a cash accounting system that failed to accrue certain liabilities. During the same period, the firm failed to exclude certain non-allowable assets, including fees due to the firm in connection with consulting

services. The findings also stated that Liang failed to accurately record the firm's liabilities and assets and failed to maintain and preserve records of its credit card bills and receipts. ([FINRA Case #2009019205301](#))

Jared Robert Lynch (CRD #5466811, Registered Representative, Eagle, Idaho) 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 60 days. The fine must be paid either immediately upon Lynch'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, Lynch consented to the described sanctions and to the entry of findings that he improperly created an answer key for a state long term care (LTC) insurance CE examination and distributed the answer keys to an employee of the member firm. The findings stated that Lynch sent an email to a registered representative at the firm and attached the study guide for an eight-hour required course and exam, consisting of 50 multiple choice questions and a blank answer sheet; a third-party educational testing company appeared to have created all the materials. The findings also stated that in the email Lynch stated he would have the answers soon and later provided the registered representative with a copy of the blank answer sheet with the answers to the 50 questions circled by hand and the words "master copy" written on the top of the page.

The suspension is in effect from November 7, 2011, through January 5, 2012. ([FINRA Case #2011029347801](#))

Stephen Michael Mazurek Jr. (CRD #2044077, Registered Representative, Royal Oak, Michigan) 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, Mazurek consented to the described sanction and to the entry of findings that he and his relative agreed to act as co-trustees for their deceased relative's trust. The findings stated that Mazurek began collecting the assets from the deceased's estate and distributing them to the beneficiaries of the trust. After Mazurek had withdrawn his allotted share, he misappropriated approximately \$60,854 from his late relative's trust for his own use and benefit, without the knowledge or authorization of the trust's beneficiaries, by writing checks made payable to "cash" in amounts ranging from \$100 to \$5,000, and used the funds for his own personal use and benefit. The findings also stated that Mazurek attempted to conceal his misconduct by convincing another relative to sign an affidavit and promissory note after Mazurek had already misappropriated the funds. ([FINRA Case #2010021749202](#))

Scott David McElhenny (CRD #2623701, Registered Principal, Marmora, 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, McElhenny consented to the described sanction and to the entry of findings

that he applied one investment model in numerous customers' accounts by executing thousands of trades on a group basis in a variable annuity platform offered by one company and a mutual fund platform offered by another company. McElhenny could place one trade, which was not individualized for each of his customers, and that trade would be processed for all of his customers that were part of the trading group. The group trading executed by McElhenny in his customers' accounts involved inverse and leveraged funds. The findings stated that McElhenny engaged in such trading without having reasonable grounds for believing that the recommendation was suitable for each of his customers in light of their individual investment objectives, financial situation and needs. As a result of McElhenny's recommendations, the customers sustained a collective loss exceeding \$1 million. The findings also stated that McElhenny exercised discretion in the customers' accounts without each customer's written authorization and his member firm's acceptance of the accounts as discretionary. The findings also included that McElhenny executed more than one hundred unauthorized securities transactions in one customer's account. ([FINRA Case #2009020124301](#))

Timothy Michael McGinn (CRD #813935, Registered Principal, Schenectady, New York) and David Lee Smith (CRD #427284, Registered Principal, Saratoga Springs, New York) were barred from association with any FINRA member in any capacity. The sanctions were based on findings that Smith misused investor funds when he sold approximately \$89 million in income notes issued by four limited liability companies (Income Note LLCs) he controlled. Smith told the investors that the Income Note LLCs would place their funds in a broad array of public and private investments. Contrary to Smith's representations, he diverted most of the invested funds for the benefit of business entities that he and McGinn owned or in which they had a financial interest. Smith also loaned approximately \$590,000 of funds directly to himself. The findings also stated that Smith made misrepresentations and omissions of material facts relating to the Income Note LLCs when he recommended to investors that they participate in the private offerings and purchase the income notes. In addition to falsely representing that the Income Note LLCs would place their funds in private and public investments, Smith stated that the member firm would charge an annual 2 percent commission or fee. In actuality, the proceeds of the investments were diverted to entities McGinn and Smith owned, which were illiquid and in poor financial condition with little or no revenues, and the firm charged recurring annual commissions or fees amounting to approximately 8 percent of the investors' purchases. Smith failed to inform investors that the Income Note LLCs would invest in, and make loans to, entities in which he and McGinn maintained a financial interest, and that the majority of the funds would be invested in illiquid, non-public companies. The findings also included that Smith directed the sales efforts by which customers purchased the Income Note LLCs. The notes were not registered with the SEC and were not eligible for exemption from registration, but the offerings falsely claimed to be exempt from the registration requirement pursuant to Rule 506 of the Securities Act of 1933, Regulation D.

FINRA found that Smith sent letters to income note investors containing material misrepresentations and omissions concerning their investments. One letter informed certain Income Note LLCs holders that their annual interest rates of return would be reduced because of market conditions, and Smith falsely represented that the firm would suspend further collection of fees from the Income Note LLCs but it continued to collect them, totaling approximately \$6.7 million. Another letter informed all Income Note LLC holders that they would be unable to redeem notes on a particular day because of conditions in financial credit markets and the resultant liquidity crises. Smith also falsely represented that the firm would forfeit all annual fees and commissions in order to improve the liquidity of the Income Note LLCs, but it continued to charge fees and commissions. In both letters, Smith failed to disclose to the note holders that the poor financial condition of the Income Note LLCs was caused in part by his decision to lend or invest most of the investors' funds in illiquid entities that he and McGinn owned and controlled, had few or no revenues, and were in financial distress. FINRA also found that the firm, through Smith, failed to establish and maintain a supervisory system, and failed to establish, maintain and enforce WSPs reasonably designed to achieve compliance with the applicable FINRA rules and securities laws related to suitability, disclosure and verification of investor accreditation status. For approximately five years, the firm's principal source of revenues was from private placements, including the Income Note LLCs. The subscription contracts potential investors submitted in income note offerings were inadequate because they did not contain information about the investors' liquid net worth, but the firm relied on them to review and approve individual investments; many investor documents were incomplete, and many were altered after they were submitted by the investors to make it appear that the investors had a higher net worth and qualified as accredited investors. The firm did not have, and Smith did not implement, procedures for reviewing customer documents reasonably designed to allow the firm to identify any potential alterations and to take appropriate action, and did not have a procedure for spot-checking customer documents and contacting customers directly to ascertain if the documents were accurate. Despite the fact that the PPM for the income notes and subscription agreements provided that only accredited investors would be eligible to invest, Smith approved and accepted investments from approximately 250 non-accredited investors.

FINRA found that McGinn and Smith provided false documents to FINRA in response to requests for information relating to loans from certain business entities they controlled. McGinn and Smith submitted copies of promissory notes relating to the loans, dated to appear that they had been previously signed; each note contained a certification attesting that it had been executed and delivered on the date specified. The certifications were false, as McGinn, Smith and a registered representative actually prepared, dated and signed the notes after the FINRA request for documents. ([FINRA Case #2009017984501](#))

Joseph Anthony McIntyre (CRD #2153378, Registered Representative, Manasquan, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for three months.

Without admitting or denying the findings, McIntyre consented to the described sanctions and to the entry of findings that he sold equity indexed annuities (EIAs) without providing his member firm with prompt written notice of the business activity. The findings stated that the EIAs were insurance-issued and were not securities products. McIntyre effected, or participated in effecting, EIA sales totaling about \$1,116,370 and received compensation totaling approximately \$80,958 from the transactions. The findings also stated that McIntyre falsely certified to the firm that he had not sold EIAs outside the scope of his employment.

The suspension is in effect from November 7, 2011, through February 6, 2012. ([FINRA Case #2010024485401](#))

Steven Tyler Moses (CRD #5633856, Registered Representative, Monroe, Louisiana) 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 Moses' 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, Moses consented to the described sanctions and to the entry of findings that he improperly allowed a branch operations manager of his member firm to assist him in answering Firm Element CE proficiency tests by indicating the correct answer. The findings stated that the firm required all registered persons to complete an internal, computer-based Firm Element CE program on an annual basis. The Firm Element CE program consisted of a series of Web-based courses and accompanying proficiency tests with courses pre-assigned to registered individuals based upon the registrations that they held at the time of assignment.

The suspension was in effect from November 7, 2011, through December 6, 2011. ([FINRA Case #2009019276102](#))

Ronak C. Patel (CRD #5523697, Registered Representative, Franklin Park, New Jersey) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Patel failed to respond to FINRA requests for information and to appear for testimony regarding loans from a firm customer. The findings stated that Patel failed to make appropriate disclosure of an outside securities account after he became associated with his member firm and failed to notify the firm that held his securities account that he had become associated with a firm. The findings also stated that Patel made a false statement on an annual compliance certification to his firm that he completed after he signed and filed his initial Form U4 subjecting himself to FINRA's jurisdiction. Patel acknowledged receipt of and adherence to the firm's policies, including obligations to comply with the firm's policies and to adhere to the applicable federal, state and self-regulatory organization laws and rules. Patel falsely stated that he did not have a securities account when, in fact, he did. ([FINRA Case #2010024540401](#))

Alan Stuart Pattee (CRD #3002976, Registered Representative, Lake Worth, Florida) submitted a Letter of Acceptance, Waiver and Consent in which was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Pattee consented to the described sanction and to the entry of findings that he forged homeowner signatures on uniform mitigation verification inspection forms (UMVI forms) in connection with inspections performed by a qualified inspector regarding construction information; the form is submitted to the homeowner's insurance company in connection with insurance pricing. The findings stated that Pattee forged the signatures to accommodate his clients, who were either not at home at the time of the inspection or were his longtime clients. The findings also stated that Pattee acted as an officer for a company formed to conduct inspections to determine homeowner policy premiums, for compensation, without providing prompt written notice to his member firm for this outside business activity. The findings also included that Pattee completed securities annual compliance online certifications for his firm representing that he had complied with the requirements of NASD Rule 3030 and for the certifications, certified that no changes were needed to his Form U4 or that he had requested appropriate changes to the Form U4 regarding outside business activities. ([FINRA Case #2010023232101](#))

Steven Mark Peaslee (CRD #2285838, Registered Principal, Alexandria, Louisiana) submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Peaslee consented to the described sanction and to the entry of findings that he participated in private securities transactions by soliciting individuals to invest approximately \$399,850 in an offering of a company he owned and controlled without providing written notice of his intent to participate in the sale of an offering to his member firm, and failed to obtain his firm's written approval before engaging in such activities. The findings stated that Peaslee's firm did not permit registered representatives to participate in the sale of private equity offerings. The offering's purpose was to capitalize an entity through which Peaslee operated his securities business, which he wholly owned. The findings also stated that the offering purported to be issued in compliance with Rule 506 of Regulation D of the Securities Act of 1933 (Reg. D), but Reg D documents were not filed with the SEC. The findings also included that Peaslee did not receive any written representation from any of the investors that they met the requirements to be an accredited investor.

FINRA found that Peaslee negligently made untrue statements of material facts and/or omitted to state material facts in a PPM and subscription agreement for the offering. In reliance on Peaslee's misrepresentations, the customers and the non-customer invested in the offering. FINRA also found that Peaslee failed to establish an escrow account in the name of the issuer, his business entity, and no investor funds from the offering were ever held in an escrow account; rather, Peaslee deposited investor funds into the entity's operating account and immediately began making withdrawals. In addition, FINRA determined that Peaslee distributed investor funds before the minimum contingency was satisfied, thereby rendering the representations in the offering documents false and misleading. ([FINRA Case #2009020134201](#))

Corinne A. Perrone (CRD #5381972, Registered Representative, Coram, 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, Perrone consented to the described sanction and to the entry of findings that she instructed a bank teller under her supervision, while acting as a bank branch manager, to process a withdrawal of \$2,500 from her personal savings account, knowing the account had insufficient funds to cover the withdrawal, but misrepresented to the teller that the account belonged to one of her customers. When the teller discovered that the account had a \$5 balance, Perrone falsely claimed that the customer would be making a deposit into the account in the near future, and Perrone performed an override on the account. The teller processed the transaction and gave Perrone \$2,500 in cash. The findings stated that Perrone forged a relative's name on a signature card, opened a checking account in her relative's name at another bank branch, traveled to another bank branch and instructed a bank teller, whom she formerly supervised, to process a withdrawal of \$6,500 from that account, without her relative's knowledge or authorization. Perrone knew the account had insufficient funds to cover the withdrawal but misrepresented to the teller that the account belonged to one of her customers. When the teller discovered that the account had a \$25 balance, Perrone falsely advised him that she had just completed a wire transfer deposit into the account for the customer and that it would take a few minutes to appear on the system. After the teller processed the \$6,500 withdrawal, Perrone directed him to give her \$2,500 in cash and to deposit the remaining \$4,000 into a checking account her relative legitimately owned. ([FINRA Case #2010024718001](#))

Brett Michael Plew (CRD #4311386, Registered Representative, Portage, Michigan)

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 20 business days. Without admitting or denying the findings, Plew consented to the described sanctions and to the entry of findings that by the time he discovered a trading error in a public customer's account, the mutual fund shares had declined in value by approximately \$50,000; Plew and the customer agreed to reallocate the securities holdings in the account and hope that the market would rebound to make up the loss. The findings stated that Plew sent the customer letters on his member firm's letterhead promising to recoup her loss and later guaranteeing that the money would be replaced if his efforts to restore the value of the account were unsuccessful within a year; Plew did not consult with his supervisor or the firm's compliance department prior to sending the letter with the guarantee. The findings also stated that the customer decided she wanted a trade correction and faxed Plew's letter to the firm's compliance department, asking that the guarantee be honored; Plew's firm reimbursed the customer for the error.

The suspension is in effect from November 21, 2011, through December 19, 2011. ([FINRA Case #2009018269501](#))

Johnnie Kelsey Pope (CRD #4427758, Registered Principal, Suffolk, 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 six months. The fine must be paid either immediately upon Pope'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, Pope consented to the described sanctions and to the entry of findings that he willfully failed to timely disclose material facts on his Form U4. The findings stated that Pope failed to disclose the material facts in an annual compliance questionnaire for his member firm. The findings also stated that Pope failed to timely respond to FINRA requests for information.

The suspension is in effect from November 7, 2011, through May 6, 2012. ([FINRA Case #2009019408802](#))

Vincent Joseph Puma (CRD #2358356, Registered Principal, Morganville, 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, Puma consented to the described sanction and to the entry of findings that he failed to appear for a FINRA on-the-record interview concerning a private placement offering and through his counsel, stated that he would not be appearing. ([FINRA Case #2010024522101](#))

Jeffrey Rachlin (CRD #823547, Registered Principal, Pleasantville, New York) 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 30 business days, and suspended from association with any FINRA member in any principal capacity for 18 months. The fine must be paid either immediately upon Rachlin's reassociation with a FINRA member firm following his all-capacity 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, Rachlin consented to the described sanctions and to the entry of findings that his member firm, acting through Rachlin and another firm principal, negligently omitted material facts in connection with its sales of promissory notes to investors. The findings stated that the notes were issued by an entity which was controlled by a real estate developer. The firm, acting through Rachlin and another firm principal, negligently failed to disclose to investors that the entity had been experiencing cash flow problems and that the entity and other companies affiliated with the real estate developer had failed to make required interest payments to investors. The findings also stated that the firm, acting through Rachlin and another firm principal, negligently failed to disclose that it was unlikely that the entity's affiliated company would be able to make its scheduled principal payments totaling \$10 million that were due to its note holders. The findings also included that Rachlin helped prepare a document called "Investor Letter" for a company; the letter was later distributed by his firm. The Investor Letter constituted a research report, but it failed to disclose a firm representative's ownership

interest in the company and his receipt of compensation from the company. FINRA found that Rachlin helped prepare presentations regarding the company, which the firm's registered representatives used to solicit potential investors at seminars. The presentations contained statements and projections that were without basis and were false, exaggerated, unwarranted and/or misleading, and failed to provide a balanced presentation by omitting material information regarding the significant risks associated with an investment in the company.

The suspension in any capacity is in effect from November 7, 2011, through December 19, 2011. The suspension in any principal capacity is in effect from November 7, 2011, through May 6, 2013. ([FINRA Case #2010021058403](#))

James Malcolm Reardon (CRD #2309779, Registered Representative, Darien, Connecticut) 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. The fine must be paid either immediately upon Reardon'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, Reardon consented to the described sanctions and to the entry of findings that he helped prepare a document called "Investor Letter" for a company; his member firm distributed the letter sometime later. The Investor Letter constituted a research report, but it failed to disclose Reardon's ownership interest in the company and his receipt of compensation from the company. The findings stated that Reardon helped prepare presentations regarding the company that the firm's registered representatives used to solicit potential investors at seminars. The presentations contained statements and projections that were without basis and were false, exaggerated, unwarranted and/or misleading, and failed to provide a balanced presentation by omitting material information regarding the significant risks associated with an investment in the company. The findings also stated that Reardon opened a personal securities account at another broker-dealer and failed to disclose to the executing broker-dealer that he was associated with a firm.

The suspension is in effect from November 7, 2011, through December 19, 2011. ([FINRA Case #2010021058404](#))

Thomas Heflin Redmond Jr. (CRD #4116004, Registered Representative, Carmel, Indiana) 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, Redmond consented to the described sanction and to the entry of findings that he made unsuitable investment recommendations to a customer. The findings stated that Redmond recommended that she invest 47.5 percent of her available funds in high-risk investments, including \$100,000 in an oil and gas offering by an entity; the SEC later charged the entity, its affiliates and control persons with operating a \$485 million offering fraud scheme. The findings also stated that Redmond knew the customer was

an elderly widow with minimal investment experience, and was looking to preserve her assets and invest conservatively, so his recommendation was unsuitable. The findings also included that Redmond failed to follow the customer's instructions in connection with the purchase of a variable annuity by failing to elect the minimum income benefit rider on the variable annuity. FINRA found that Redmond forged customers' signatures on subscription agreements to purchase interests in an entity's offering. Redmond signed the customers' names without their express authorization or consent. FINRA also found that Redmond made misrepresentations to a customer while soliciting him to invest in an entity's offering; Redmond falsely claimed that he had personally invested a third of his assets in the offering when he had not invested in the offering. ([FINRA Case #2009020417501](#))

Guy Eugene Richardson (CRD #2926034, Registered Representative, Topeka, Kansas) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Richardson failed to respond to FINRA requests for information. The findings stated that Richardson made similar misrepresentations to customers, all of whom wished to make conservative investments, about a certain corporate bond fund that he recommended to them. The fund did not provide a guaranteed dividend yield or rate of return; its objective, as stated in the fund's prospectus, was to seek maximum current income through investment in a diversified portfolio of high-yield debt securities. In fact, the fund's semi-annual report stated that the fund invested in junk bonds for which investors pay a premium because of the increased risk of loss, and that the bonds can be subject to greater price volatility than higher quality debt securities. Relying on Richardson's recommendations, the customers invested approximately \$317,000 in the fund. In addition, FINRA determined that Richardson made these misrepresentations without attempting to verify what he told the customers. Moreover, FINRA found that in an on-the-record interview with FINRA, Richardson testified that he believed at the time he made the misrepresentations that the fund did carry a guaranteed dividend yield, and that he recommended the fund to the customers because they wanted a higher return than was available in bank-sponsored products. Richardson admitted further that he did not review the fund's prospectus or other documents available to him to verify his understanding of its dividend yield, and that he did not fully understand the product. ([FINRA Case #2008016382401](#))

Joseph Peter Rivera (CRD #3142103, Registered Representative, Dix Hills, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member in any capacity for 60 days. In light of Rivera's financial status, no monetary sanctions were imposed. Without admitting or denying the findings, Rivera consented to the described sanction and to the entry of findings that he willfully failed to timely amend his Form U4 to disclose a material fact. The findings stated that Rivera also non-willfully failed to timely amend his Form U4 to disclose a material fact.

The suspension is in effect from November 21, 2011, through January 19, 2012. ([FINRA Case #2009017372201](#))

Alfred Rodriguez (CRD #5648703, Registered Representative, Westminster, Colorado) 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, Rodriguez consented to the described sanction and to the entry of findings that he misappropriated approximately \$5,903 from a customer's account by effecting withdrawals and either signing the customer's name or writing "Per Customer Request" on the withdrawal ticket without the customer's or the bank affiliate's permission or authority to withdraw funds from the account. The findings stated that Rodriguez received illegitimate incentive compensation, totaling \$3,750, by enrolling bank affiliate customers in online bill pay service without their authorization or consent; none of these transactions involved funds from an account held at a FINRA regulated entity. ([FINRA Case #2010025449301](#))

Scott Andreu Roges (CRD #4044199, Registered Representative, Gilbert, Arizona) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 30 days. The fine must be paid either immediately upon Roges' 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, Roges consented to the described sanctions and to the entry of findings that he falsified a customer's signature without the customer's knowledge or consent in an attempt to correct the customer's social security number and beneficiary's birth date on an amendment to a fixed life insurance policy. The findings stated that the member firm's WSPs specifically prohibited registered representatives from falsifying and/or forging customers' signatures on transaction documents and/or other documents.

The suspension was in effect from November 7, 2011, through December 6, 2011. ([FINRA Case #2010024280601](#))

Thomas William Scanlon (CRD #1061543, Registered Representative, Holliston, 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 three months. The fine must be paid either immediately upon Scanlon'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, Scanlon consented to the described sanctions and to the entry of findings that he impersonated customers and a registered representative in order to obtain confidential customer information from his former member firm. The findings stated that Scanlon made telephone calls to his former firm's customer service line in order to obtain confidential customer information concerning certain of his former clients accounts still maintained at that firm. Scanlon was no longer the agent of record on the customer accounts and, therefore, was not entitled to access to this confidential information. The findings also stated that Scanlon made a number of telephone calls to his

former firm's customer service line in which he impersonated the registered representative at that firm who had been assigned to a number of Scanlon's former customer accounts. Scanlon sought the confidential customer information in order to facilitate discussion during his upcoming meetings with the customers about possibly transferring their accounts to his new employer member firm.

The suspension is in effect from November 7, 2011, through February 6, 2012. ([FINRA Case #2010024313001](#))

David Alan Schams (CRD #1587140, Registered Representative, Alma, Wisconsin) submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Schams consented to the described sanction and to the entry of findings that he accepted appointment as an alternative agent attorney-in-fact over a customer account, without his member firm's express written consent. Schams was to receive approximately \$90,000 from the customers' estate; Schams accepted two \$20,000 interest-free loans on the anticipated inheritance, without signing a promissory note evidencing the loan, contrary to the firm's compliance policies that prohibited registered representatives from exercising or maintaining discretionary authority or power of attorney over customer accounts and borrowing money, accepting loans, issuing or transacting promissory notes or other similar forms of debt for customers without the express written consent of the firm's compliance department. The findings also stated that Schams made material misstatements to his firm in a compliance questionnaire regarding borrowing money or accepting a loan from a client, holding any securities, stock powers, money or property belonging to a client, accepting client checks made payable to him, or endorsed to him personally or in the name of an entity, and managing or handling, in any way, the affairs of any client account on a discretionary basis. ([FINRA Case #2009018293201](#))

J. Stuart Schultz (CRD #2350425, Registered Principal, Oakland, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$30,000, suspended from association with any FINRA member in any capacity for six months, and barred from association with any FINRA member in any principal capacity. The fine must be paid either immediately upon Schultz' 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, Schultz consented to the described sanctions and to the entry of findings that Schultz permitted individuals he supervised to sell more than \$4.7 million in private placement offerings without being registered and to delay taking their FINRA exams, as long as a year after becoming associated with the firm. Schultz did not prevent some individuals from continuing to sell securities even after they failed the necessary FINRA exam and was negligent in not knowing about their sales of securities. The findings stated that Schultz filed Forms U5 that omitted material information and contained materially false,

misleading and inaccurate information, and signed each electronically, verifying the accuracy and completeness of the information. The findings also included that Schultz filed Forms U5 late, sometimes months after the individual left the firm.

FINRA found that firm associated persons and registered representatives used advertising and sales literature in connection with sales of private placements that contained false and misleading statements. Schultz, as a registered principal of the firm, approved for use these misleading pieces of advertising and sales literature the issuer created, and failed to maintain copies reflecting his review and approval. FINRA also found that Schultz, as CCO, was responsible for the firm's compliance with recordkeeping requirements, and failed to cause the firm to make and preserve accurate books and records. In addition, FINRA determined that Schultz did not retrieve or otherwise take action to protect hard-copy business records containing customers' non-public personal information, failed to safeguard customers' personal confidential information and made such information available to non-affiliated third parties without providing the appropriate notice to the customers. Moreover, FINRA found that Schultz failed to establish and enforce a supervisory control system to test and verify that its supervisory procedures were reasonably designed with respect to its activities to achieve compliance with applicable securities laws, regulations and FINRA rules, and create additional or amend existing supervisory procedures where the need is identified. The numerous violations of securities regulations and NASD and FINRA rules described were not identified or addressed in the firm's Annual Review & Supervisory Control Reports for two years, and no amendments to its existing supervisory procedures were created in response to these violations. Furthermore, FINRA found that Schultz failed to establish, maintain and enforce the firm's written procedures to supervise the types of business in which it engaged, and to supervise the activities of registered representatives, registered principals and other associated persons. As a registered principal of the firm, Schultz had individual supervisory responsibilities that he failed to carry out. Schultz failed to implement effective procedures to prevent the unlicensed sales of securities, cause Forms U5 to be filed timely, prevent associated persons from conducting securities business through non-firm email accounts, review and approve associated persons' non-email, written communications with the public, the handling of PPM, subscription documents and investor funds for private placements sold firm associated persons sold, compliance with the advertising content standards for advertising and sales literature and required advertising-related files, due diligence of private placement offerings prior to the firm's approval for sale, maintenance of daily records of branch transactions and branch manager review, branch office inspections, and that supervisory personnel were qualified to carry out their assigned responsibilities.

The suspension is in effect from November 7, 2011, through May 6, 2012. ([FINRA Case #2010022715603](#))

Fred Ralph Schwartz (CRD #1405861, Registered Representative, Los Angeles, California) submitted an Offer of Settlement in which was fined \$5,000, suspended from association with any FINRA member in any capacity for three months, and ordered to pay \$42,599 in restitution to customers. Without admitting or denying the allegations, Schwartz consented to the described sanctions and to the entry of findings that he engaged in excessive, unsuitable trading in the customers' accounts. The findings stated that Schwartz exercised effective control over the accounts and recommended or implicitly recommended numerous securities transactions for the accounts. The executed purchases totaled approximately \$7.8 million. The types of securities transactions that Schwartz recommended are considered long-term investments, which were excessive and unsuitable based on the customers' conservative investment objectives and risk tolerance. The findings also stated that Schwartz recommended and engaged in a pattern of trading that resulted in annualized turnover rates of 2.9 percent and 7.7 percent, and annualized commission-to-equity ratios between 6.5 percent and 21 percent in the customers' accounts. The customers lost a significant amount of money from Schwartz' trading, which generated gross commissions of approximately \$207,509.

The suspension is in effect from November 7, 2011, through February 6, 2012. ([FINRA Case #2006004795101](#))

Michael Daniel Shaw (CRD #1571907, Registered Representative, Baton Rouge, Louisiana) 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, Shaw consented to the described sanction and to the entry of findings that acting on his member firm's behalf, he recommended and effected the sale of high-risk private placements to customers without having a reasonable basis to believe the transactions were suitable given the the customers' financial circumstances and conditions; Shaw earned a total of \$56,733 in net commissions on the transactions. The findings stated that Shaw made material misrepresentations or omissions in connection with the purchases or sales in connection with the private placements; despite the description of each product as high risk or highly speculative in the offering documents, Shaw intentionally misinformed customers that the investments were safe and secure, and represented one product as a relatively low-risk investment. The findings also stated that Shaw falsified account documents for customers, increasing net worth and changing risk profiles. The findings also included that Shaw and his firm settled with one of the customers; the firm settled with another. ([FINRA Case #2010022963601](#))

Brian Simone (CRD #5357610, Registered Representative, Elmhurst, 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, Simone consented to the described sanction and to the entry of findings that he failed to appear to testify at a FINRA on-the-record interview. ([FINRA Case #2011028964201](#))

Brian Simone (CRD #5357610, Registered Representative, Elmhurst, New York) submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Simone consented to the described sanction and to the entry of findings that he willfully failed to disclose material information on his initial Form U4 with a member firm and willfully failed to amend his Form U4 with the firm to disclose the material fact. The findings stated that Simone provided false information on another member firm's employment application. Simone failed to disclose that he was unemployed for a period of time. With the second firm, Simone willfully disclosed false and misleading material information regarding his employment history on the initial Form U4 that he submitted or caused to be submitted, and willfully failed to amend his Form U4 to correct the false, material information. The findings also stated that Simone submitted, or caused to be submitted, a false written statement to a state's securities division through his firm that provided misleading information. ([FINRA Case #2008016024701](#))

Jeffrey Alan Smith (CRD #2400590, Registered Principal, Santa Ana, California) submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member in any principal capacity for 20 business days. In light of Smith's financial status, no monetary sanctions have been imposed. Without admitting or denying the findings, Smith consented to the described sanction and to the entry of findings that he failed to enforce his member firm's WSPs and failed to effectively supervise the activities of the firm's associated persons over whom he had supervisory responsibility to ensure that they were complying with FINRA rules and federal securities laws and regulations. The findings stated that Smith failed to enforce the firm's WSPs regarding the handling of PPM, subscription documents, and investor funds for private placement offerings sold by the firm, and failed to effectively supervise the associated persons' handling of such documents so that he did not prevent the associated persons from sending subscription documents directly to the private placement issuer, precluding the firm from conducting adequate oversight or review of the transactions and from retaining transaction-related documents. The findings also stated that Smith failed to review the firm's private placement sales for suitability, and typically did not review or approve private placement transactions effected by the associated persons he supervised. The findings also included that Smith failed to enforce the firm's WSPs and failed to effectively supervise their use of non-firm email for securities business. Smith was aware of, and did not prevent, the associated persons from using personal email accounts to conduct securities business. The use of non-firm email accounts prevented the firm's compliance staff from reviewing the associated persons' customer communications, and the firm was unable to retain securities-related communications.

The suspension is in effect from November 21, 2011, through December 19, 2011. ([FINRA Case #2010022715605](#))

Isaiah Solomon (CRD #1112800, Registered Representative, Mitchellville, Maryland) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$15,000, which includes disgorgement of \$8,600 representing the financial benefits he received from sales, and suspended from association with any FINRA member in any capacity for 18 months. The fine must be paid either immediately upon Solomon'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, Solomon consented to the described sanctions and to the entry of findings that he participated in the sale of securities outside his employment at his member firm and failed to give written notice to his firm of his intention to engage in the transactions and obtain the firm's authorization to engage in such activities; Solomon referred individuals, some of whom were his firm's clients, to an individual and an entity so the customers could invest with the entity. The findings stated that the entity initially claimed to offer foreign exchange trading opportunities, but later claimed to offer investments in a hedge fund that would engage in various trading strategies; the customers invested approximately \$750,000 with the individual and entity, and Solomon also invested with the individual and entity. The findings also stated that Solomon introduced the customers to the individual, typically during a conference call where the individual promised guaranteed returns of 12 percent per year for two years; Solomon recommended the investment to most of the customers and received \$8,600 from the entity for his efforts. The findings also included that Solomon engaged in discussions with the individual and the entity about possible employment with the entity.

The suspension is in effect from October 17, 2011, through April 16, 2013. ([FINRA Case #2009020265401](#))

Darin Scott Souza (CRD #1904039, Registered Representative, Hingham, Massachusetts) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Souza'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, Souza consented to the described sanctions and to the entry of findings that Souza's customer signed an application for a single premium immediate annuity policy; the customer would receive a monthly payment of \$288 upon issuance of the annuity. The findings stated that Souza failed to file the application in a timely fashion. To address the customer's concerns that she needed the funds from the annuity to pay expenses, Souza purchased a money order from his bank and provided it to the customer, falsely representing that it was the initial payment from the annuity.

The suspension is in effect from November 7, 2011, through February 6, 2012. ([FINRA Case #2010024375301](#))

Evan Taber (CRD #1892751, Registered Representative, Plantation, Florida) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Taber intentionally converted or misappropriated customer funds. The findings stated that Taber discussed with a customer an investment that would yield a 15 percent rate of return and the customer gave Taber a check for \$30,000 payable to the investment; Taber deposited the customer's check into the investment checking account. The findings also stated that the customer repeatedly called Taber to determine the status of his investment, and each time Taber reassured the customer that his funds had been invested; Taber failed to inform the customer that the investment checking account was actually Taber's personal bank account. The findings also included that Taber did not make any investment with the customer's funds; instead, Taber used the customer's funds for numerous business and personal expenses. FINRA found that Taber ultimately refunded the customer's funds, but not until FINRA began its investigation into the customer's complaint. ([FINRA Case #2010021196801](#))

Danny Wayne Thomason (CRD #1062781, Registered Representative, Sherwood, Arkansas) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for four months. The fine must be paid either immediately upon Thomason'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, Thomason consented to the described sanctions and to the entry of findings that he forged customers' signatures on insurance-related documents without their knowledge or authorization.

The suspension is in effect from October 17, 2011, through February 16, 2012. ([FINRA Case #2010024090501](#))

Robert Durant Tucker (CRD #1725356, Registered Representative, New York, New York) was suspended from association with any FINRA member in any capacity for two years and required to requalify as a corporate securities limited representative at the conclusion of the suspension. The NAC imposed the sanctions following appeal of an OHO decision. The sanctions were based on findings that Tucker willfully failed to disclose material information on his Forms U4.

Tucker appealed the decision to the SEC and the sanctions are not in effect pending the appeal. ([FINRA Case #2007009981201](#))

Joseph Alphonse Vitale (CRD #5223467, Registered Representative, Boca Raton, Florida) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Vitale failed to respond to FINRA requests for information. ([FINRA Case #2009017585202](#))

Gavin Michael Wilson (CRD #4213480, Registered Representative, San Carlos, 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 six months. The fine must be paid either immediately upon Wilson'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, Wilson consented to the described sanctions and to the entry of findings that he falsified a customer's signature on an account transfer form. The findings stated that a new registered representative joined Wilson's member firm and sought to transfer her securities holdings at another broker-dealer to an account at the firm. In order to effectuate the transfer, the new registered representative signed an account transfer form authorizing the transfer in-kind of her securities holdings. The findings also stated that Wilson was responsible for ensuring that the transfer was made consistent with the customer's instructions, as reflected in the signed transfer form. Shortly after submitting the transfer form for processing, Wilson received notification from the broker-dealer holding the registered representative's securities that her holdings could not be transferred in-kind. The findings also included that rather than communicating this issue to the customer, Wilson transposed a copy of the registered representative's signature onto a new transfer form requesting liquidation of her securities and submitted the falsified transfer for processing, causing liquidation of her securities, without her authorization or consent.

The suspension is in effect from November 7, 2011, through May 6, 2012. ([FINRA Case #2011027249601](#))

Steven Gayne Winters (CRD #1334699, Registered Principal, Reno, Nevada) submitted an Offer of Settlement in which he was fined \$10,000, suspended from association with any FINRA member in any capacity for eight months, and ordered to pay \$5,500 in restitution to a customer. The fine must be paid either immediately upon Winters' reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the allegations, Winters consented to the described sanctions and to the entry of findings that he willfully failed to timely amend his Form U4 to disclose a material fact. The findings stated that Winters borrowed \$20,000 from a customer contrary to his member firm's written procedures that expressly prohibited firm employees from borrowing money from, or lending money to, firm customers. The findings also stated that Winters neither sought nor obtained approval from the firm before receiving the loan from the customer, and his arrangement with the customer did not satisfy any of the conditions set forth in NASD Rule 2370(a)(2)(A)-(E). To date, a \$5,500 balance remains unpaid by Winters on the principal of the loan.

The suspension is in effect from November 7, 2011, through July 6, 2012. ([FINRA Case #2009019911701](#))

Decision Issued

The Office of Hearing Officers (OHO) issued the following decision, which has been appealed to or called for review by the NAC as of October 31, 2011. The NAC may increase, decrease, modify or reverse the findings and sanctions imposed in the decision. Initial decisions where the time for appeal has not yet expired will be reported in future FINRA Notices.

Chad Allen McCartney (CRD #4294388, Registered Representative, Mooresville, North Carolina) was barred from association with any FINRA member in any capacity. The sanction was based on findings that McCartney created and submitted a false expense report and supporting documentation, including a forged letter, to his member firm to obtain funds to which he was not entitled. The findings stated that McCartney used a template a firm employee provided to create a false invoice to obtain reimbursement of a contribution he made to a charity, even though he knew that it was not a reimbursable expense, and also created a false verification letter with a forged signature on another member firm's letterhead thanking him for holding a seminar at a cost to McCartney of \$500, without the individual's authorization to draft the letter or sign his name. The findings also stated that McCartney fabricated a fake check to submit as proof of payment with his false expense report by changing the payee and deleting the charity's handwritten account number on the memo line. The findings also included that McCartney then submitted the false invoice, verification letter and check to his expense processor, who prepared an expense report based on the false documentation and forwarded it to McCartney's firm on his behalf. As a result, McCartney received a \$500 expense reimbursement payment from his firm. FINRA found that McCartney admitted that he fabricated an invoice, seminar verification letter and check, which he submitted to his firm with a fraudulent expense report, and that he accepted a \$500 expense reimbursement to which he was not entitled under his firm's expense reimbursement policy.

McCartney appealed the decision to the NAC and the sanction is not in effect pending the appeal. ([FINRA Case #2010023719601](#))

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.

Alonzo Levi Bethea (CRD #2184794, Registered Representative, Silver Spring, Maryland) was named as a respondent in a FINRA complaint alleging that he sold securities in the form of limited liability company membership interests totaling \$534,644 in a company he

formed, without providing written notice to, or obtaining approval from, any of his member firms before engaging in the private securities transactions involving his company. The complaint alleges that Bethea directed customers to partially liquidate variable annuities he had previously sold them so they could make investments in his company; after the liquidations, the proceeds were sent to a third-party IRA custodian for alternative, non-traditional investments. The complaint also alleges that Bethea failed to provide written notice to his firms of his operation of an investment club he formed outside the scope of his relationship with his firms; the purpose of the club was to pool investor funds to make securities investments for which the members would receive returns in proportion to the amount of their original investment. The complaint further alleges that Bethea transferred approximately \$477,460 from the company and from the investment club bank accounts to his personal bank accounts, where customer funds were commingled with his personal funds, without their authorization or consent. After customers' funds were deposited in Bethea's personal accounts, he converted at least \$93,950 to his own use, making payments on his own credit card account and paying other personal debts. Bethea also misused company and investment club funds by making payments on loans secured by mortgages on a relative's property and on loans owned by persons who were not members of the company or the investment club. In addition, the complaint alleges that one of Bethea's customers sought to open an account at a third-party IRA custodian for the purpose of holding her investment in the company. Without the authorization or consent of the customer, Bethea signed her name to the new account form the custodian required. Moreover, the complaint alleges that Bethea supplied false information to his firms on annual compliance questionnaires, in an email, and on a form regarding whether he was engaged in private securities transactions involving the company, his activities involving the company, whether he had signatory authority on any investment or checking accounts for the company, and if he had commingled his funds with a client's, other than an immediate family member. ([FINRA Case #2009020491401](#))

Brent Robert Bishop (CRD #2348912, Registered Principal, Tulsa, Oklahoma) was named as a respondent in a FINRA complaint alleging that he misappropriated funds from customers by converting \$40,000 of a fictitious investment for his own use and providing false and misleading investment certificates. The complaint alleges that Bishop converted the funds to his personal use by depositing the funds into a bank account he controlled and using the funds to pay for personal expenses. The complaint also alleges that Bishop borrowed approximately \$74,000 from several of his customers. In exchange for a check from the customers, Bishop executed a promissory note or installment note that purported to set forth the terms of the loans, including the principal amount, interest rate and repayment period, contrary to his member firm's WSPs that prohibited borrowing money from customers other than immediate family members, and Bishop never sought the firm's permission to borrow money from any customers. The firm did not pre-approve in writing any of the loans. The complaint further alleges that Bishop failed to respond to FINRA requests for information and to appear at an on-the-record interview. ([FINRA Case #2010021827701](#))

Philip Eckstein (CRD #3080212, Registered Representative, Wilton, Connecticut) was named as a respondent in a FINRA complaint alleging that he misappropriated funds from a customer by converting \$10,000 for his own use and providing her with false information to hide the theft. The complaint alleges that a customer sought to invest \$30,000 in fixed annuities through Eckstein. Eckstein instructed the customer to make one check payable to his member firm for \$20,000 and another check payable to him for \$10,000. The complaint also alleges that Eckstein informed the customer that he had purchased two annuities with the \$30,000 but he had only purchased one annuity in the amount of approximately \$20,000; instead of purchasing a \$10,000 annuity, Eckstein deposited the \$10,000 check into his personal account and converted the money to his own use. The complaint further alleges that the customer asked Eckstein on many occasions over the years following for additional information about the \$10,000 annuity she believed she had purchased. Eckstein repeatedly told the customer that it was difficult for him to get the information because different computer systems within the firm did not communicate with each other, and her file was being handled by different firm employees at different times. In addition, the complaint alleges that five years later, the customer learned that Eckstein had not purchased an annuity for her with the \$10,000, when the firm provided her attorney with that information. Moreover, the complaint alleges that, in connection with a state investigation of the same events, the firm reimbursed the customer \$10,000 plus \$2,800 interest, for the annuity that was never purchased, and Eckstein was ordered to repay the customer \$7,700 for a loan she made to him, as well as pay her legal fees. Furthermore, the complaint alleges that Eckstein failed to appear for FINRA on-the-record testimony. ([FINRA Case #2009019288301](#))

Marsha Ann Hill (CRD #4197899, Registered Principal, Halstead, Kansas) was named as a respondent in a FINRA complaint alleging that she made unsuitable recommendations to her customer, to purchase a variable annuity in the amount of \$110,418.97 and two private placement offerings in the amount of \$10,000 each. The transactions were unsuitable because more than 90 percent of the customer's liquid net worth was placed in the variable annuity; this investment had a seven-year surrender period and was illiquid, and the private placement offerings were highly risky, unsuitable for the customer and did not meet her investment objectives. The complaint also alleges that, after the customer had contacted her to confirm the status of her investments, Hill informed the customer that she had failed to forward the checks and requested that the customer re-date and re-initial the checks that had previously been provided with a different date. The checks received and forwarded blotter Hill completed contained entries for the transactions. The blotter showed check receipt dates for some of the transactions and a date forwarded. For one transaction, the check did not show a date received or a date forwarded. The dates indicated on the blotter were not accurate. The complaint further alleges that Hill utilized and entered the date that the customer had re-initialed the checks, and changed the dates, rather than enter the dates she had initially received the checks; the checks were not forwarded until another date. In addition, the complaint alleges that by holding the checks in this manner, Hill

misused the customer's funds, in that she delayed the intended investments, caused her member firm to be in violation of SEC Rule 15c3-3, and caused the firm's books and records to be inaccurate. Furthermore, the complaint alleges that Hill sold a private placement offering to a customer. The information provided on the customer's account information form (AIF) indicated that she was not an accredited investor. After Hill sent the AIF to her Office of Supervisory Jurisdiction (OSJ) manager, her supervisor noted that the financial information was not sufficient to invest in an accredited-only investment, and spoke to her about this fact. After this, Hill deleted certain information from the AIF using correction fluid and wrote in different annual income, net worth, and liquid net worth information on the AIF without discussing the alterations with her customer or having her customer complete an updated form or re-execute the new AIF. Hill faxed the altered form to her supervisor. ([FINRA Case #2009018026801](#))

Mercator Associates, LLC (CRD #112903, Toronto, Canada) and Fabrizio David Lentini (CRD #2392695, Registered Principal, Toronto, Canada) were named as respondents in a FINRA complaint alleging that the firm, acting through Lentini, its head trader, improperly shared transaction-based commissions totaling approximately \$4,277,740 with entities that were not FINRA member firms. The complaint alleges that the firm, acting through Lentini, charged commissions ranging from 5.02 percent to 31.25 percent on trades placed in two accounts. Lentini was the firm registered representative assigned to those accounts and the firm trader responsible for the execution of the subject transactions which involved securities traded on Canadian exchanges. The total amount of commissions charged on those trades was approximately \$1,223,560 Canadian dollars (CAD) while the amount in excess of 5 percent was approximately \$588,379.63 CAD. The complaint also alleges that taking into consideration all relevant circumstances, the commissions the firm charged on the transactions were not fair. Each of the subject trades was part of a commission sharing arrangement. The complaint further alleges that the firm failed to establish and maintain a supervisory system and establish, maintain and enforce WSPs reasonably designed to achieve compliance with applicable securities laws and regulations; the firm's supervisory system and WSPs were deficient in that they failed entirely to address the commission sharing arrangement. The firm's supervisory system and WSPs were also deficient in that they failed to provide guidance or structure regarding the supervision of securities pricing and commissions. In addition, the complaint alleges that the firm failed to implement portions of its AML Compliance Program (AMLCP). The CIP portion of the firm's AMLCP required the firm to obtain basic identifying information for all customers at the time of account opening and to verify such information either through documentary or non-documentary methods, maintain transmittal orders for wire transfers of more than \$3,000, and those orders had to contain at least the name and address of the transmitter and recipient, the amount of the transmittal order, the identity of the recipient's financial institution and the recipient's account number. The firm's AMLCP also required that it provide AML training to its employees at least annually. Furthermore, the complaint alleges that during one year, one firm account wired out funds in excess of \$3,000 and failed to

retain information regarding those wires, including the recipient's name, address and account number, and the identity of the recipient's financial institution. The complaint also alleges that for two years, the firm failed to provide any AML training to its personnel. ([FINRA Case #2009016323802](#))

Monarch Financial Corporation of America (CRD #23437, New York, New York) was named as a respondent in a FINRA complaint alleging that it sold municipal securities from its own account to customers, with markups that were excessive and not fair and reasonable, taking into consideration all relevant factors. The complaint alleges that the firm's WSPs provided that municipal markups on principal transactions will not exceed 3 percent without the designated principal's approval, taking into consideration various factors. The firm charged excessive markups, ranging from 3.21 percent to 5.68 percent. All but one of the transactions involved zero coupon bonds, and all the bonds were investment-grade or above. The firm was not a market maker in any of the municipal bonds. Because of the excessive markups imposed, the customers received yields on the bonds that were lower than they would have obtained had the markups been fair and reasonable. The complaint also alleges that although the firm's supervisory system included WSPs concerning fair pricing on municipal bonds, the firm failed to take adequate steps to enforce those procedures and ensure that markups on the municipal bonds were fair and reasonable. The complaint further alleges that there was no meaningful supervisory review to ensure that all relevant factors set forth in MSRB Rule G-30(a) were adequately considered before markups were approved. In fact, rather than carefully considering and taking into account all relevant factors set forth in MSRB Rule G-30(a), the person supervising markups and markdowns at the firm focused only on yield. ([FINRA Case #2009016339101](#))

Edward Antonio Salazar (CRD #2338244, Registered Representative, Houston, Texas) was named as a respondent in a FINRA complaint alleging that he participated in the solicitation and sale of bonded life settlements without providing prior written notice to, and obtaining written approval from, his member firm. The complaint alleges that Salazar received a payment of approximately \$77,000 in connection with his sales of the securities to customers. The complaint also alleges that Salazar participated in outside business activities without providing notice to his member firm. The complaint further alleges that prior to soliciting and selling the securities to the customers, Salazar failed to conduct adequate due diligence inquiries regarding the insurance company that bonded/re-insured the underlying life insurance policies the securities company purchased and resold; had he done so, Salazar would have learned that the insurance company was barred from conducting the unlicensed sale of insurance in a state based on findings that it misrepresented the value of assets on its balance sheet. In addition, the complaint alleges that prior to soliciting and selling the securities, Salazar also failed to conduct adequate due diligence inquiries regarding the company the securities company hired to assess the life expectancies of the insured parties of the underlying policies which served as collateral for the product; had he done so, Salazar would have learned that the hired

company's owners were indicted for violating the criminal provisions of the Federal Food, Drug and Cosmetic Act, and pleaded guilty to aiding and abetting in the introduction of a misbranded drug into interstate commerce with the intent to mislead. Moreover, the complaint alleges that Salazar failed to obtain information regarding the qualifications of the issuer's principals to issue life settlements and to examine reports of its financial status to ascertain the company's economic well-being. Based on the foregoing, Salazar lacked a reasonable basis for making the securities recommendations to his customers. ([FINRA Case #2010022405601](#))

Robert Harold Watkins (CRD #2390939, Registered Representative, Garland, Texas) was named as a respondent in a FINRA complaint alleging that he recommended and executed the purchase of units of a collateral mortgage obligation security (CMO) in an elderly customer's account that resulted in an unsuitable level of concentration in the CMO in the customer's account. The complaint alleges that the customer had a moderate risk tolerance and a primary investment objective of current income. She informed Watkins that she relied upon investment income social security to pay her living expenses. The concentrated position in the CMO exposed the customer to a risk of loss that exceeded her risk tolerance and investment objectives. The position ultimately resulted in a loss of \$4,915 when the customer reduced her holdings by selling units. The remaining units the customer held declined in value, which caused an unrealized loss of \$183,459.96. ([FINRA Case #2009018771602](#))

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

Domestic Securities, Inc. (CRD #34721)
Montvale, New Jersey
(October 14, 2011)
FINRA Case #2005003185202

Firm Expelled 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.)

Weston International Capital Markets LLC (CRD #130742)
New York, New York
(October 24, 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.)

Securities Corporation of America (CRD #15286)
Dallas, Texas
(October 6, 2011 – October 24, 2011)

Firm Suspended for Failure to Pay Annual Assessment Fees Pursuant to FINRA Rule 9553

Seton Securities Group, Inc. (CRD #18044)
Union Beach, New Jersey
(October 10, 2011 – October 12, 2011)

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

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

Westpark Capital, Inc. (CRD #39914)
Los Angeles, California
(October 21, 2011 – October 31, 2011)
FINRA Arbitration Case #09-04244

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.)

Mario H. Aguilar (CRD #5770949)
Pico Rivera, California
(October 24, 2011)
FINRA Case #2011026467001

Eric Michael Bastardo (CRD #5511706)
Torrance, California
(October 31, 2011)
FINRA Case #2011027682001

John Jay Clarke (CRD #4210170)
Wayne, New Jersey
(October 3, 2011)
FINRA Case #2011026964401

Joseph Louis Curtis (CRD #4388640)
Stockton, California
(October 3, 2011)
FINRA Case #2011026822701

Francisco Alberto Diaz (CRD #2665862)
Miami, Florida
(October 3, 2011)
FINRA Case #2010022909701

Cynthia Diane Franke (CRD #1252575)
Hallandale, Florida
(October 17, 2011)
FINRA Case #2009019128701

Edward Leonard Kosowicz (CRD #1277061)
Reno, Nevada
(October 31, 2011)
FINRA Case #2010021700401

Irene Machung (CRD #5081096)
Maspeth, New York
(October 3, 2011)
FINRA Case #2010025218501

Jeffrey Dewayne Myers (CRD #3055584)
Fort Wayne, Indiana
(October 11, 2011)
FINRA Case #2010023612501

Joel Christopher O'Polka (CRD #5744850)
Cedar Rapids, Iowa
(October 3, 2011)
FINRA Case #2011026825001

Teresa R. Phipps (CRD #5604330)
Yorktown, Indiana
(October 3, 2011)
FINRA Case #2011026633301

Samuel Walker Pile (CRD #4253211)
Nicholasville, Kentucky
(October 11, 2011)
FINRA Case #2010025729001

Johnnie Kelsey Pope (CRD #4427758)
Suffolk, Virginia
(September 17, 2010 – October 26, 2011)
FINRA Case #2009019408801

Shawn Patrick Reilly (CRD #3259364)
Congers, New York
(October 31, 2011)
FINRA Case #2011027826401

Robert Rodriguez (CRD #2383183)
Miami, Florida
(October 11, 2011)
FINRA Case #2011026553001

Danil Rymar (CRD #5652847)
Brooklyn, New York
(October 11, 2011)
FINRA Case #2010025571001

Charles William Schaser III (CRD #4777313)
Cincinnati, Ohio
(October 18, 2011)
FINRA Case #2011026293501

Gregory B. Walker (CRD #4377793)
Fort Wayne, Indiana
(October 3, 2011)
FINRA Case #2011027179001

Keath Allen Ward (CRD #2785440)
Lake St. Louis, Missouri
(October 3, 2011)
FINRA Case #2010025270801

Wayne Edward Wolf (CRD #2756607)
Las Vegas, Nevada
(October 11, 2011)
FINRA Case #2011026196501

**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.)

Jeffrey Allan Ashton (CRD #4146295)
Plymouth, Michigan
(October 13, 2011)
FINRA Case #2010025343801

Ed Taloma Bagaporo aka Edelfonso Taloma Bagaporo (CRD #4194351)
 Bonita, California
 (October 24, 2011)
 FINRA Case #2010025148802

Shaunna L. Burroughs (CRD #5431092)
 Flint, Michigan
 (October 7, 2011)
 FINRA Case #2010024301601

Michael Dewayne Carter Sr. (CRD #2069269)
 Antioch, California
 (October 31, 2011)
 FINRA Case #2011027121101

Christopher Michael Christanelli (CRD #5103101)
 Henrietta, Texas
 (October 24, 2011)
 FINRA Case #2011027102601

Herbert J. Coats (CRD #5889150)
 Fort Wayne, Indiana
 (October 13, 2011)
 FINRA Case #2011027760301

Chris Tedd Enriquez (CRD #4155630)
 Chula Vista, California
 (October 24, 2011)
 FINRA Case #2010025148801

Juan Pablo Granja (CRD #4940977)
 New York, New York
 (October 3, 2011)
 FINRA Case #2010024704801

David Alan Hayden (CRD #711302)
 Spring, Texas
 (October 6, 2011)
 FINRA Case #2010023977301

Andre Roosevelt Johnson (CRD #5472674)
 Philadelphia, Pennsylvania
 (October 31, 2011)
 FINRA Case #2011027309801

Joseph Thomas Morrissey (CRD #2005206)
 Sea Isle, New Jersey
 (October 27, 2011)
 FINRA Case #2011026832401

Keith David Nash (CRD #1676906)
 Johnstown, Pennsylvania
 (October 13, 2011)
 FINRA Case #2011027349101

Matthew Donald Newman (CRD #5211828)
 Costa Mesa, California
 (October 17, 2011)
 FINRA Case #2011026578401

Victor Carl Pesavento (CRD #5745905)
 Crown Point, Indiana
 (October 31, 2011)
 FINRA Case #2011026318401

Scott Alan Ross (CRD #2427058)
 Austin, Texas
 (October 24, 2011)
 FINRA Case #2010025125501

Hamza Shaikh (CRD #4237482)
 Rego Park, New York
 (October 21, 2011)
 FINRA Case #2011027899901

Edward Marlone Slay (CRD #3245274)
 Westlake, Ohio
 (October 31, 2011)
 FINRA Case #2010024263801

Victor Lloyd Smith Jr. (CRD #2370414)
 Brooklyn, New York
 (October 31, 2011)
 FINRA Case #2011026595801

Michael Thomas Taylor (CRD #3114597)
Wappingers Falls, New York
(October 14, 2011)
FINRA Case #2011027571201

Francisco Javier Tineo (CRD #3221630)
Astoria, New York
(October 13, 2011)
FINRA Case #2010023786901

Terry Phillip Walters (CRD #1777491)
Raleigh, North Carolina
(October 31, 2011)
FINRA Case
#2010023780801/2009020625502

Steve Thomas Zielinski (CRD #5456832)
Schererville, Indiana
(October 14, 2011)
FINRA Case #2011026088201

**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.)

William Michael Banks (CRD #1342200)
Southport, Connecticut
(October 14, 2010 – October 19, 2011)
FINRA Arbitration Case #09-04856

John Thomas Bauer (CRD #2609925)
Woodway, Texas
(October 10, 2011)
FINRA Arbitration Case #10-01340

Jonathan William Benham (CRD #2283257)
Naples, Florida
(October 31, 2011)
FINRA Arbitration Case #11-01345

Alfred Guy Cali (CRD #1713120)
Huntington Station, New York
(October 31, 2011)
FINRA Arbitration Case #09-00352

Robert Anthony Cataldo (CRD #1056971)
Lexington, Massachusetts
(October 10, 2011)
FINRA Arbitration Case #11-00891

**Joseph Desmond Fitzgerald III (CRD
#2260452)**
New York, New York
(April 2, 2008 – October 28, 2011)
NASD Arbitration Case #07-01950

Sean K. Hannon (CRD #4296260)
Cary, North Carolina
(October 6, 2011)
FINRA Arbitration Case #09-06798

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

Joseph Arthur Jackson (CRD #1680650)
New Port Richey, Florida
(October 27, 2011)
FINRA Arbitration Case #09-06430

Thomas Marshall Jones (CRD #2299248)
Austin, Texas
(October 10, 2011)
FINRA Arbitration Case #11-00151

Walter Michael Katai (CRD #1835095)

Reno, Nevada
(October 31, 2011)
FINRA Arbitration Case #10-04538

David Louis Klein (CRD #2034286)

Okeechobee, Florida
(October 6, 2011)
FINRA Arbitration Case #10-00847

Mark Norman Levine (CRD #1979837)

West Hartford, Connecticut
(October 6, 2011)
FINRA Arbitration Case #10-04301

Alfred Thomas Nittoli Jr. (CRD #2038965)

Park Ridge, New Jersey
(October 6, 2011)
FINRA Arbitration Case #11-01010

James Allen Queen (CRD #1559196)

Calabasas, California
(October 31, 2011)
FINRA Arbitration Case #10-04565

Vincent Ross Jr. (CRD #2383988)

Pittsburgh, Pennsylvania
(October 6, 2011)
FINRA Arbitration Case #10-01130

Kapil Shashikant Shah (CRD #4409290)

Jersey City, New Jersey
(October 18, 2011)
FINRA Arbitration Case #20110275384/07-01476/ARB110023

Odai Vir Singh (CRD # 3275133)

Tucson, Arizona
(October 31, 2011)
FINRA Arbitration Case #10-05314

FINRA Fines Merrill Lynch \$1 Million for Supervisory Failures That Allowed a Registered Representative to Operate a Ponzi Scheme

The Financial Industry Regulatory Authority (FINRA) announced that it has fined Merrill Lynch, Pierce, Fenner & Smith Inc., \$1 million for supervisory failures that allowed a registered representative at Merrill Lynch's branch office in San Antonio, Texas, to use a Merrill Lynch account to operate a Ponzi scheme.

Bruce Hammonds, the registered representative, convinced 11 individuals to invest more than \$1 million in a Ponzi scheme he created and ran as B&J Partnership for over 10 months. Merrill Lynch supervisors approved Hammonds' request to open a business account for B&J and failed to supervise funds that customers deposited and Hammonds withdrew. FINRA permanently barred Hammonds from the securities industry in December 2009. Merrill Lynch reimbursed all investors who were harmed by Hammond's misconduct.

FINRA found that Merrill Lynch failed to have an adequate supervisory system in place to monitor employee accounts for potential misconduct. Merrill Lynch's supervisory system automatically captured accounts an employee opened using a social security number as the primary tax identification number. However, if the employee's social security number was not the primary number associated with the account, the system failed to capture the account in its database. Instead, Merrill Lynch solely relied on its employees to manually input these accounts into its supervisory system. FINRA also found that from January 2006 to June 2010, Merrill Lynch failed to monitor an additional 40,000 employee/employee-interested accounts, which were not reported for certain periods of time and therefore not available on the supervisory system.

Brad Bennett, FINRA Executive Vice President and Chief of Enforcement, said, "Firms must ensure their supervisory systems are designed to properly monitor employee accounts for potential misconduct. Merrill Lynch's inadequate supervisory system and the firm's excessive reliance on employee self-reporting enabled Hammonds to facilitate his Ponzi scheme to the detriment of investors."

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

FINRA Fines UBS Securities \$12 Million for Regulation SHO Violations and Supervisory Failures

The Financial Industry Regulatory Authority (FINRA) announced that it has fined UBS Securities LLC \$12 million for violating Regulation SHO (Reg SHO) and failing to properly supervise short sales of securities. As a result of these violations, millions of short sale orders were mismarked and/or placed to the market without reasonable grounds to believe that the securities could be borrowed and delivered.

In a short sale, the seller sells a security it does not own. When it is time to deliver the security, the short seller either purchases or borrows the security in order to make the delivery. Reg SHO requires a broker-dealer to have reasonable grounds to believe that the security could be borrowed and available for delivery before accepting or effecting a short sale order. Requiring firms to obtain and document this “locate” information before the short sale occurs reduces the number of potential failures to deliver in equity securities. In addition, Reg SHO requires a broker-dealer to mark sales of equity securities as long or short.

FINRA found that UBS’ Reg SHO supervisory system regarding locates and the marking of sale orders was significantly flawed and resulted in a systemic supervisory failure that contributed to serious Reg SHO failures across its equities trading business. First, FINRA found that UBS placed millions of short sale orders to the market without locates, including in securities that were known to be hard to borrow. These locate violations extended to numerous trading systems, desks, accounts and strategies, and impacted UBS’ technology, operations, and supervisory systems and procedures. Second, FINRA found that UBS mismarked millions of sale orders in its trading systems. Many of these mismarked orders were short sales that were mismarked as “long,” resulting in additional significant violations of Reg SHO’s locate requirement. Third, FINRA found that UBS had significant deficiencies related to its aggregation units that may have contributed to additional significant order-marking and locate violations.

Brad Bennett, FINRA Executive Vice President and Chief of Enforcement, said, “Firms must ensure their trading and supervisory systems are designed to prevent the release of short sale orders without valid locates, and properly mark sale orders, in order to prevent potentially abusive naked short selling. The duration, scope and volume of UBS’ locate and order-marking violations created a potential for harm to the integrity of the market.”

As a result of its supervisory failures, many of UBS’ violations were not detected or corrected until after FINRA’s investigation caused UBS to conduct a substantive review of its systems and monitoring procedures for Reg SHO compliance. FINRA found that UBS’ supervisory framework over its equities trading business was not reasonably designed to achieve compliance with the requirements of Reg SHO and other securities laws, rules and regulations until at least 2009.

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

FINRA Fines Morgan Stanley \$1 Million and Orders Restitution of \$371,000 for Excessive Markups and Markdowns

The Financial Industry Regulatory Authority (FINRA) announced that it has fined Morgan Stanley & Co. Inc. and Morgan Stanley Smith Barney LLC \$1 million and ordered \$371,000 in restitution and interest to customers for excessive markups and markdowns charged to customers on corporate and municipal bond transactions, and related supervision violations.

FINRA found that Morgan Stanley charged markups and markdowns ranging from below 5 percent to 13.8 percent on corporate and municipal bond transactions, which were higher than warranted given factors including market conditions, the cost of executing the transactions and the value of the services rendered to the customers.

Thomas Gira, Executive Vice President, FINRA Market Regulation, said, “Firms must ensure that customers who buy and sell securities, including corporate and municipal bonds, receive fair and reasonable prices regardless of whether a markup or markdown is above or below 5 percent. Morgan Stanley clearly violated fair pricing standards and FINRA will continue to require firms that violate such standards to make their customers whole.”

FINRA found that Morgan Stanley’s supervisory system for corporate and municipal bond markups and markdowns was inadequate. The firm’s supervisory reports were not designed to include markups and markdowns that were below 5 percent but nonetheless may have been excessive. And before August 2009, Morgan Stanley’s policies and procedures considered only one of two charges that the firm added to the price of a bond when it determined whether a markup or markdown was fair and reasonable. Morgan Stanley was also ordered to revise its written supervisory procedures regarding supervisory review of markups and markdowns in fixed income transactions with its customers.

In concluding this settlement, Morgan Stanley neither admitted nor denied the charges, but consented to the entry of FINRA’s findings.